DOCUMENT RESUME

ED 252 037 EC 171 194

TITLE	Child Abuse Prevention Handbook. Revised.
INSTITUTION	California State Office of the Attorney General, Sacramento. Crime Prevention Center.
PUB DATE	Oct 83
NOTE	55p.
AVAILABLE FROM	Crime Prevention Center, Office of the Attorney General, P.O. Box 13197, Sacramento, CA 95813.
PUB TYPE	Guides - Non-Classroom Use (055)
EDRS PRICE	MF01/PC03 Plus Postage.
DESCRIPTORS	*Child Abuse; *Child Advocacy; *Community Responsibility; Criminal Law; Family Problems; Helping Relationship; Infants; Injuries; Medical Services; *Sexual Abuse; State Legislation; Young Children
IDENTIFIERS	*California

ABSTRACT

Intended to heighten public awareness and provide practical information to professionals, this handbook defines and describes child abuse (including sexual abuse) and its associated signs and injuries. The societal and family environments in which child abuse most typically occurs are described, and the California penal code sections pertaining to crimes against children are summarized. Reporting procedures and follow-up are also discussed. The professional responsibilities of the police, the sheriff, social service workers, and the legal and medical communities are outlined. Treatment for abusers as well as for the abused is discussed. Included as appendixes are sample child abuse report forms, applicable sections of the California state code, and the rules of search and seizure as they apply to the investigation of child abuse crimes. (JW)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

This document has been reproduced as received from the person or organization originating it.

Minor changes have been made to improve reproduction quality.

Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

ED252037

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Gary Ensign

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

EC171194

Child Abuse Prevention Handbook

Crime Prevention Center
Office of the Attorney General
John K. Van de Kamp, Attorney General

147194

For further information, additional copies or camera ready masters of the *Child Abuse Prevention Handbook*, write:

Crime Prevention Center
Office of the Attorney General
Post Office Box 13197
Sacramento, California 95813

January 1982 Revised October 1983

All photographs copyright 1982, The Imagebank. Permission is granted to reproduce photographs only in context of the *Child Abuse Prevention Handbook*.

5

Introduction

Child rearing has traditionally been a private, family matter. In our society, parents, family members and other caretakers have cared for and disciplined their children as they have seen fit with a minimum of outside interference.

Times have changed, however, and a growing awareness of the incidence and degree of child mistreatment is altering the public's attitude regarding child rearing. There is increasing concern that children must be protected from harm, regardless of the origin of the harm.

The right of a child to enjoy a healthy, satisfying life should be granted equal status with parental rights.

Contents

4. **A child is crying . . .**

6. **What is child abuse?**

14. **Who are the child abusers?**

15. **The legal aspects**

22. **Professional responsibilities**

27. **Treatment of child abusers & the abused**

29. **Community involvement**

30. **Appendix I.**
Suspected Child Abuse Report (11166 PC)
Suspected Child Abuse – Medical Report
Suspected Child Abuse Preliminary Investigation Report (11169 PC)
Unfounded Child Abuse Report (11169 PC)
Suspected Child Abuse Report – alternate form (11169 PC)

37. **Appendix II.**
California Penal Code Sections 11165–11172 and 11174

41. **Appendix III.**
Welfare and Institutions Code Section 318

42. **Appendix IV.**
Title II, California Administrative Code Sections 930–930.8. "Guidelines for Investigation of Child Abuse in Group Homes or Institutions"

47. **Appendix V.**
The rules of search and seizure as they apply to the investigation of child abuse crimes

52. **Acknowledgments**

6

A child is crying...

When they cry, babies tell the world that they are hungry, wet, tired or just bored. Of course, it is natural for babies to cry.

Sometimes, however, a baby's or an older child's crying takes on a sinister significance. Deliberately and willfully bones are broken; burns are inflicted by scalding water, irons, flames or lighted cigarettes; blood vessels, intestines, livers and spleens are ruptured by kicks and blows; skin is flayed and mangled by whippings; heads are smashed and cracked open; little bodies are starved to sickness and death. For all these things, too, a child cries.

The cry, however, reaching the ears of the abusing parents only seems to spur them on. It is our ear, the ear of society, that must hear the cry and do something effective to stop the parents and caretakers who intentionally hurt and kill the children entrusted to their care.

No concern should be more important to a community than the protection and welfare of its children. Babies and young children are among the most vulnerable victims of violent crime in California.

According to the National Center on Child Abuse and Neglect, over 1,000,000 children are abused or neglected each year. Of these, 100,000 - 200,000 are physically abused, 60,000 - 100,000 are sexually abused and the remainder are neglected. Over 2,000 children die each year because of abuse or neglect by their adult caretakers.

Child abuse and neglect are found in all cultural, ethnic, occupational and socio-economic groups. It is a problem which requires our immediate and serious attention and the development of interagency and community cooperative efforts in prevention, education, reporting, training and treatment.

Many persons are in positions to observe the battered and abused child: teachers, doctors, nurses, counselors, babysitters, neighbors and family members. Too often neglect and abuse situations are overlooked, reaching child protective agencies only after the damage is severe or irreversible. The earlier a problem is referred for help, the better the chance of helping the child and the family.

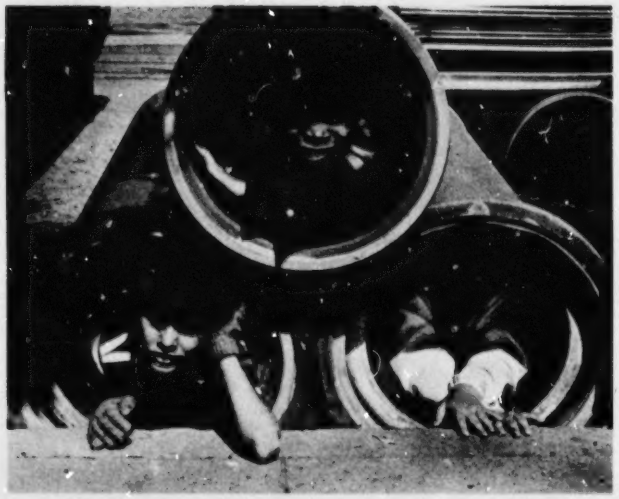
Although the right of parents to control and raise their own children is accepted as a fundamental right in our society, intervention is justified by a paramount social interest – the safety of the child. The Fourteenth Amendment of the United States Constitution states that *everyone* has equal protection under the law. Intervention for the protection of a child may involve a broad range of possible action, including counseling and treatment for the family; referral to community assistance programs; the filing of criminal charges; and/or the removal of a child from the control and custody of a parent, guardian or other caretaker.

The serious and pervasive problem of child abuse and neglect is recognized and currently dealt with by a variety of disciplines. Law enforcement and criminal justice system personnel, the medical community, social service workers and others have developed strategies for handling the problem. Laws have been passed and enforced, medical diagnostic techniques discovered, counseling offered and direct services provided to families in difficulty. In isolation, however, each of these approaches is limited at best. The most thorough, consistent and effective strategies to report, treat and prevent child abuse employ the cooperative application of expertise from all involved disciplines.

The willful breaking of a child's leg by a parent or guardian is a physical assault by one human being upon another. It is clearly a crime and, as a result, those agencies of government responsible for dealing with crime must maintain a major role and intervene in such a case. Once such intervention has occurred, however, it is recognized that it may not always be appropriate to handle this type of criminal activity with a traditional crime and punishment approach. In making that decision, all segments of the system must work together; pool their collective experience and judgment; and reach the best decision. Only then can we be sure that the best interests of society, and particularly of the child, have been protected and served. Rather than any effort to compartmentalize our approaches to child abuse and neglect, we should all be moving to ensure even greater cooperation and communication between law enforcement and social service agencies, creating the necessary team approach.

The purpose of this handbook is to heighten public awareness and understanding of child abuse. It should also serve as a practical aid to those persons who work in the field of child abuse and neglect.

We must all be concerned with the detection, treatment and, above all, the effective prevention of child abuse and neglect for the sake of children, parents and society as a whole.



What is child abuse?

To many, child abuse is narrowly defined as having only physical implications. In reality, child abuse is any act of omission or commission that endangers or impairs a child's physical or emotional health and development. This includes:

- Physical abuse and corporal punishment resulting in a traumatic condition.
- Emotional abuse.
- Emotional deprivation.
- Physical neglect and/or inadequate supervision.
- Sexual abuse and exploitation.

The *act* of inflicting injury or allowing injury to result, *rather than the degree* of injury, is the determinant for intervention. A parent or caretaker may begin by inflicting minor injuries, then may increasingly cause more serious harm over a period of time. Therefore, detecting the initial small injuries and intervening with preventive action may save a child from future permanent injury or death.

Of course, physical injuries, physical neglect and malnutrition are more readily detectable than the subtle and intangible injuries which result from emotional maltreatment or deprivation. However, all kinds of abuse create serious problems and demand attention.

A critical aspect of child abuse investigating procedures involves assessment of a family's emotional relationships. When observing a family, it is important that the investigator's personal biases and preconceptions be controlled. Differentiation is to be made between practices of child rearing which are truly harmful to children and those practices which merely reflect differences in life-styles.

Family stress, created by difficulties in obtaining the basic necessities of life – including food, shelter, clothing, medical care and education – may cause parents to be less capable of providing adequately for the emotional needs of their children. In struggling for survival, such a parent may be incapable of resolving difficult situations rationally and abuse of

children may occur. Such situational stress does not constitute justification or legal defense for child abuse, but must be taken into consideration by agencies that become involved in determining appropriate protective measures against future harm of the child and/or treatment and proper punishment for the child abuser.

Although many people assume that parents are the only culprits, it is important to remember that children can become victims of abuse by persons in non-parental relationships, such as foster parents, babysitters, day care workers, etc. The guidelines which are delineated as "reasons for suspicion" in this publication are applicable to all situations or relationships involving the care and well-being of children.

PHYSICAL ABUSE AND CORPORAL PUNISHMENT

Inflicted physical injury most often represents unreasonably severe corporal punishment. This usually happens when the parent is frustrated or angry and shakes or throws the child or strikes the child out of anger. Other forms of punishment may also place a child in a situation where injury occurs or the child's health or person is endangered.

Intentional, deliberate assault, such as burning, biting, cutting, poking, twisting limbs or otherwise torturing a child, is also included in this category of child abuse.

The combination of physical punishment and rage is ineffective as a disciplinary tool and can be deadly. Many experts agree that while physical punishment and rage have the immediate effect of interrupting the child's behavior, the deterrent effect is not long-term. In addition, the use of excessive corporal punishment may teach a child to resolve conflicts violently and to use physical power rather than reason to obtain results or to express anger. Physical punishment is more effective for relieving parental tension than for disciplining the child. Moreover, it frequently leaves the parent with feelings of guilt and remorse.

While there are many who believe that all corporal punishment is abusive, there are others who believe it is a useful method of discipline *under restrained conditions*. Discipline and punishment are not the same. Parents and children need to establish mutual respect and rules of behavior. Some techniques suggested for maintaining good discipline are: the giving of choices, suggesting substitutes, giving face-saving commands, removing tempting objects, setting up rituals and cooperative activites, being sensitive to a child's needs and values and keeping a sense of fair play. There are numerous books and articles which expound on these issues and are instructive and helpful for parents. Your local Child Abuse Council may have a listing of these books.

Signs of physical abuse

The *general clinical signs* of abuse (in the absence of a reasonable explanation for the injury) include:

- Damage to the skin and surface tissues, such as bruises, burns, abrasions, lacerations or swelling.
- Damage to the brain, as evidenced by convulsions, altered mental status, such as coma or irritability, retardation of developmental progress or change in the rate of head growth.
- Damage to other internal organs, as suggested by shock, abdominal pain or distention or bleeding within the organs.
- Damage to the skeleton, as evidenced by swelling, pain on movement or deformity.

Indicators of *reportable suspected child abuse* would generally fall into the following categories (see "Reporting child abuse"):

- Child states that injury was caused by abuse.
- Any injury unusual for a specific age group (e.g., any fracture in an infant).
- A history of previous or recurrent injury.
- Unexplained injury (e.g., parent unable to explain reason for injury; discrepancies in given explanations; blame placed on a third party; explanations inconsistent with medical diagnosis).
- Bruising in an unusual area, other than on shins, elbows, knees, for example. Certain specific bruising patterns also indicate child abuse, such as belt buckle marks, handprints, bite marks and pinches.
- Evidence of poor supervision (repeated falls down stairs; repeated ingestions of harmful substances; a child cared for by another child).
- Evidence of neglect. (See "Physical neglect.")
- Any indication of sexual abuse. (See "Sexual abuse and exploitation.")
- Verbal threats against the life of a child made by a parent or caretaker.

Suspected physical abuse indicates the following types of injuries:

BURNS

Burns are often difficult to evaluate. However, the location of the burn and its characteristics (shape, depth, margins, etc.) may indicate abuse. It is important to keep in mind that children instinctively withdraw from pain. Burns without some evidence of withdrawal are highly suspect.

One burn characteristic of abuse is that which has the shape of a recognizable object evenly burned into the victim's skin. Such burns indicate forced contact or "branding" with, for example, the grill of an electric heater, the element of an electric stove or an iron.

Another burn that does not appear to be accidental is a scald burn between the shoulder blades. Such burns can result from immersion of a child's upper back in hot water. "Zebra" burns also indicate abuse. Such burns result when a child is held by his or her hands and legs under a running hot faucet. The tissue

on the child's abdomen and upper legs folds up, preventing burning in the creases. The resulting "zebra stripes" from scalding of exposed tissue are clearly evident.

A child's natural response when stepping into a tub of water is to sit down in it. This may result in burns of the feet and the entire surfaces of the buttocks if the water is hot. The child will then usually try to escape which will result in splashes, uneven burns and sometimes burns on the hands.

In contrast, when children are forcibly held in hot water, there are often sharply demarcated burns. If held in water in a "jackknife" position, only the buttocks and genitalia may be burned. If held down forcibly in a sitting position, the center parts of the buttocks (if pressed tightly against the tub) are spared from burning, thus resulting in a "doughnut"-shaped burn. If the extremities are forcibly immersed in hot water, "glove" or "sock" burns to the hands or feet may result. The burns are often symmetric and an immersion line is readily evident.

Abuse should also be suspected when burns are pointed or deeper in the middle. This indicates that hot liquid was poured on, or a hot object (poker, utensil) pressed into the skin. Cigarette burns are difficult to diagnose, but when inflicted they are usually multiple and are often found on the palms or soles. There is a searing effect with charring around the wound.

Rope burns appear around wrists or ankles when children are tied to beds or other structures.

BRUISES

Inflicted abuse should be suspected when:

- Bruises are either multiple and all of the same color, or multiple and of different colors (differences in coloration reflect various stages of healing and indicate that the injuries were sustained at different times);
- The child is less than 12 months old (children this age would be unlikely candidates for multiple bruises);
- Bruises are found on multiple surfaces of the body, particularly on the back, genitals or mouth;
- Bruises have a characteristic pattern (outline of hand, paired bruises from pinching, loop from a cord, etc.) or clearly resemble an impression of an item of jewelry, such as a ring; and/or
- Bruises are on both sides of the face (two black eyes would be highly suspect, unless in the case of a proven accidental broken nose).

Timing or age dating (ecchymosis) of bruises can be an important factor. While the following colorations are only approximations, they can serve as a rough guide to determine when the injury occurred:

- Immediate – within a few hours: red
- Soon – from 6 to 12 hours prior: blue
- Later – from 12 to 24 hours prior: black-purple
- 4 to 6 days prior: green tint, dark
- 5 to 10 days prior: pale green to yellow

BITE MARKS

Bite marks (which may be found on any part of the body) may be described as doughnut-shaped or double horseshoe shaped. Occasionally, as many as 12 or more tooth impressions will be seen and in some cases as few as one or two.

Time is of the essence in recording bite marks as they become less distinct with time. Photographs, impressions and salivary swabbings can be used to collect suspected bite mark evidence. Investigators should be prepared to seek the expertise of forensic odontologists in cases where bruises are suspected bite marks.

Human bite marks can be used to reveal the identity of the abuser, due to the uniqueness of the human dentition. Bite mark evidence is admissible in the courts of California and many other states, as well as in U.S. military cases.

ABRASIONS, LACERATIONS AND SCARS

Again, the multiplicity and location of wounds, as with bruises, should be considered. For example, lacerations under the tongue or those of a torn frenulum (the small piece of skin connecting the gum to the lip – could be caused by falling with an object in the mouth or by excessive force during feedings. Both are suspicious injuries, particularly before an infant can stand.

WHIPPING

Linear marks or strap marks sometimes covering a curved body surface (wraparound) are evidence of intentional abuse. Belt buckles cause a "C"- or "U"-shaped, dark wound called a "gull wing" laceration. Belt buckles can cause other wounds with distinctive shapes as well. Loop marks on the skin may be caused by a doubled-over electrical cord or rope.

HEAD INJURIES

Whenever abuse or neglect is suspected, a careful examination of the child's eyes and nervous system should be performed, looking for signs of intracranial injury. Serious intracranial injury may occur without visible evidence of trauma on the face or scalp. One such injury is a subdural hematoma (blood trapped in a space around the brain) which, if left untreated, may cause brain damage or death.

Skull x-rays should be performed in all abused children with evidence of trauma to the head, as well as in all small infants in whom abuse is suspected. All types of skull fractures should be carefully evaluated, especially when the explanation of the injury is not consistent with the presented trauma.

Head injuries are the most common cause of the child abuse-related deaths.

"WHIPLASH SHAKEN INFANT SYNDROME"
The essential elements in this syndrome present an apparent diagnostic contradiction, in that intracranial and intraocular hemorrhage occur in the absence of signs of external injury to the head. Shaking, using excessive force, may produce not only these injuries, but also lesions of the long bones.

The injury may go undiagnosed for years and perhaps first be manifest at school age as minor neurologic deficits or learning problems. More severe deficits, such as blindness, deafness, or paralysis, generally appear sooner. Even death can be caused by this type of abuse. A careful post-mortem examination of every child who dies in infancy is required to detect the real cause of death and to avoid erroneous diagnoses.

PUMMELING
Blows from a heavy blunt object, such as a baseball bat or fist, on soft tissue results in deep muscular bruises or hemorrhage. These are rarely discolored. In time, such a collection of blood may be seen on x-rays. Blunt blows to the body may cause serious internal injuries to the liver, spleen, pancreas, kidneys and other vital organs. Detectable surface evidence of such trauma is present only about half the time.

FRACTURES
Any fracture in an infant or toddler is suspect. Long-bone (arm and leg) fractures that are the result of twisting are called "spiral" fractures and are almost always due to inflicted trauma.

Other fractures which raise suspicion are: "chip" fractures at the end of long bones, particularly when they occur in an infant; fractures resulting from yanking and jerking; rib fractures, especially back rib fractures; and healing or healed fractures revealed by x-rays.

ADDITIONAL SIGNS OF PHYSICAL ABUSE
Some additional factors that should raise suspicion and trigger further investigation include the following:

- Very young children with injuries on the back surfaces of the body from the neck to the knees. This is the primary target zone for infliction of physical injuries. Such injuries constitute the largest percentage of identified abuse.
- Bruises, scars and wounds on the backs of arms and hands which are called "defense" wounds.
- Excessive layers of clothing, especially in hot weather. (It may be an attempt to hide wounds).

One of the most important grounds for suspicion is the one that is discussed the least: *when a child tells someone.* It is essential that the child *not* be ignored, nor the gravity of the situation minimized. It should be remembered, too, that *when a child tells a particular person who is an individual required to report child abuse, the communication is not privileged.* That individual, *BY LAW, SHALL* report what the child has related to him or her. This requirement applies to any type of communicated abuse, including situations of physical abuse, emotional assault or deprivation, physical neglect or sexual abuse. Individuals who report such suspected child abuse cases in good faith cannot be held liable, either civilly or criminally, for making such reports. (See "Reporting child abuse.") It is often advisable that the person making the report gain the confidence of the child and try to maintain a close relationship throughout the emotional ordeal likely to occur when the child abuse is reported.

EMOTIONAL ABUSE
Just as physical injuries can scar and incapacitate a child, emotional cruelty can similarly cripple and handicap a child emotionally, behaviorally and intellectually. Severe psychological disorders have been traced to excessively distorted parental attitudes and actions. Emotional and behavioral problems, in varying degrees, are very common among children whose parents abuse them emotionally.

Excessive verbal assaults (belittling, screaming, threats, blaming, sarcasm), unpredictable responses (inconsistency), continual negative moods, constant family discord and double-message communication are examples of ways parents may subject their children to emotional abuse.

Emotional abuse may be suspected if the child:

- Is withdrawn, depressed and apathetic.
- "Acts out," and is considered a "behavior problem."
- Is overly rigid in conforming to instructions of teachers, doctors and other adults.
- Displays other signs of emotional turmoil (repetitive, rhythmic movements; inordinate attention to details; no verbal or physical communication with others).
- Unwittingly makes comments such as, "Daddy always tells me I'm bad."

The behavior patterns mentioned may, of course, be due to other causes, but the suspicion of abuse should not be precluded.

Emotional distress may result when:

- Demands are made on the child which are based on unreasonable or impossible expectations or without consideration of the child's developmental capacity.
- The child is used as a "battleground" for marital conflicts.
- The child is used to satisfy the parent's/caretaker's own ego needs and the child is neither old enough nor mature enough to understand.

A person who emotionally abuses a child, as well as one who abuses a child in other ways, may tend to "objectify" the child by referring to him/her as "it" ("it" cried – "it" died).

Emotional abuse can be seen as encouraging a self-fulfilling prophecy. If a child is degraded enough, the child will begin to live up to the image communicated by the abusing parent or guardian.

Emotional abuse cases are not mandated reporting situations (except in extreme cases such as intentional infliction of unjustifiable mental suffering) and they are difficult to prove. (See Appendix II, P.C. Section 11166(b).) *Accumulative documentation by witnesses is imperative.* Such cases should be diverted to treatment as soon as possible.

EMOTIONAL DEPRIVATION

Emotional deprivation has been defined as ". . . the deprivation suffered by children when their parents do not provide the normal experiences producing feelings of being loved, wanted, secure and worthy."

When parents ignore their children, whether because of drugs or use of alcohol, psychiatric disturbances, personal problems or other preoccupying situations, such as outside activities, serious consequences may occur.

Emotional deprivation should be suspected if the child:

- Refuses to eat adequate amounts of food and is thus very frail.
- Is not thriving in general (unable to perform normal learned functions for a given age, e.g., walking, talking, etc.).
- Displays antisocial behavior (aggression, disruption) or obvious "delinquent" behavior (drug abuse, vandalism); conversely, the child may be abnormally unresponsive, sad or withdrawn.
- Constantly "seeks out" and "pesters" other adults (such as teachers, neighbors, etc.) for attention and affection.
- Displays exaggerated fears.

PHYSICAL NEGLECT

Physical neglect is essentially the failure of a parent or caretaker to provide a child with adequate food, shelter, clothing, protection, supervision and medical and dental care.

Physical neglect is suspected if the following conditions exist:

- Unsanitary conditions in home (garbage, animal or human excretion).
- Lack of heating or plumbing in home.
- Fire hazards or other unsafe home conditions.
- Sleeping arrangements are cold, dirty or otherwise inadequate.
- Nutritional quality of food in home is poor.
- Meals are not prepared (children snack when hungry).
- Spoiled food in refrigerator or cupboards.
- The child is lacking in medical or dental care.
- The child is always dirty; poor personal hygiene.
- The child is always sleepy or hungry.
- The child's clothing is always dirty or inadequate for weather conditions.
- A child under 14 is left alone in the home or unsupervised under any circumstances (left in car, street, etc.).

While some of these conditions may exist in any home environment, *it is the extreme* or *persistent* presence of these factors that indicate neglect.

FAILURE TO THRIVE

Infants or young children who are much smaller than would be expected at a particular age can be a difficult diagnostic problem for physicans. After excluding those infants who are small because they were small at birth, there remains a large group of infants with low weights (and perhaps short lengths and small head circumferences). Most of these children are small because of a failure to meet their nutritional needs and/or failure to meet their emotional needs. These children may also demonstrate delayed development and abnormal behavior. Some of the small children, however, do have hidden medical problems. Hospitalization may be required to screen for significant medical illness and, more important, to see if the child responds to a nurturing environment and adequate food with a rapid weight gain and more appropriate behavior.

If left untreated, emotional disorders, school problems, retardation and other forms of abuse may ensue.

SEXUAL ABUSE AND EXPLOITATION

Incestuous/intrafamilial sexual abuse

Sexual abuse of children within the family is the most hidden, least publicized form of child abuse. In spite of its taboo nature and the difficulty of detection, some researchers believe such abuse may be even more common than physical abuse.

In discussing sexual abuse, "incest" means sexual activity between persons who are blood-related; "intrafamilial" refers to sexual activity between family members not related by blood (stepparents, boyfriends, etc.).

A person with no prior history of sexual problems can be tempted to sexually abuse a child in the intimacy of family life, especially at times of stress or when adult relationships are poor. A person who chooses to involve a child in sexual activity can easily make the child believe that sex is a special game or a normal and necessary part of being loved and accepted. An older child can be convinced that he/she is at fault for seducing the parent/caretaker. The child will then fear disgrace, hatred or blame for breaking up the family if the secret is revealed.

Although some adults may believe their conduct is blameless, the harm done to the child remains the same whenever sexual abuse is committed. The abuser may convince himself that he has a duty to "show the child the facts of life." He may believe he is more loving and caring than outsiders who might "spoil" or mistreat the child. He may feel so neglected and needy himself that he feels compelled to exploit the only supporting, loving relationship he can find. He

may enter the child's bedroom at night and take down the bed covers to expose the child's body or to explore it with hands or mouth. Confused and fearful of this strange, recurring behavior, the child usually pretends sleep. Sometimes the abuser's approach is more direct. The child is courted and seduced into mutual arousal or forced to masturbate or fellate the abuser. Vaginal intercourse also occurs. Full vaginal intercourse occurs even with quite young children, as well as with older children.

Sexual abuse is followed by guilt-provoking demands for secrecy and/or threats of terrible harm if the secret is revealed. Regardless of how gentle or forceful or how trivial or coincidental the first approach may have been, sexual coercion tends to be repeated and escalates over a period of years. Often the child eventually accepts the blame for tempting and provoking the abuser.

In most reported cases of sexual abuse, the father or another man acting as the parent is the initiator. While girls are the most frequent victims, boys are victims of abuse much more often than previously believed. The embarrassment and shame used to deter girls from reporting such abuse has an even greater effect on boys since the abuse is most often homosexual. When responding to a case of reported abuse of a female, investigators should not overlook the possibility that male children in the family may also have been molested.

The initial sexual abuse may occur at any age, from infancy through adolescence. However, the largest number of cases involves females under the age of 11 years. The sexual activity is usually repetitive and progressive. There is no escape for the victim until he/she is old enough to realize that incest is not a common occurrence, and/or he/she is strong enough to obtain help outside the family.

The mother, who normally would be expected to protect the child, may purposely try to stay isolated from a problem of sexual abuse. Sometimes she is distant and uncommunicative, or so disapproving of sexual matters that children are afraid to speak up. Sometimes she is insecure and the potential loss of her husband or partner and the fear of scandal are so threatening that she cannot allow herself to believe or even to suspect that her child is or could be at risk. She may have been a victim herself of child abuse and rejection and may not trust her judgment or her right to challenge the male authority. Some mothers actually know of sexual abuse; but, for whatever reason, they "look the other way."

Sometimes a child who does seek help is accused of making up stories, since many people cannot believe that the apparently well-adjusted person involved could be capable of sexual abuse. When the matter does come to the attention of authorities, the child may give in to pressure from parents/caretakers and deny that any sexual abuse has occurred. Even if protective attention is gained, the child may feel guilty about "turning in" the abuser or breaking up the family and, consequently, withdraw the complaint. This process leads many to be skeptical of the child's complaint of sexual abuse, and leaves him/her feeling helpless and guilty for causing so much trouble. Everything in the secrecy and circumstances surrounding illicit sexual activity combines to make the victim carry the weight of the problem.

The sad reality is that the child often remains trapped in secrecy by shame, fear and the threats of the abuser.

Careful evaluation is necessary in a sexual abuse situation to determine whether the child should be removed from the home immediately. The mother may assure the officer that the offending male will not be allowed to return to the home. However, in view of the emotional and perhaps economic dependence the mother often has on the offending male, she may allow him back into the house. Th is, the child is again in an unprotected environment.

Even though sexual abuse is often deceptively nonviolent, it is more powerfully compelling and more often disabling than any strong-arm attack from a stranger. Yet the prognosis often can be encouraging. There can be a striking recovery when effective intervention and help are provided. Intervention alone does not interrupt the trap of sexual abuse, for the child remains burdened with guilt and helplessness unless the offending parent is forced to admit and take responsibility for his/her actions. Detection, reporting, investigation, appropriate prosecution, supervision and counseling are frequently essential parts of a family treatment process. When child abuse has been exposed, self-help organizations, such as Children United, Parents United and Parents Anonymous, can be very helpful. They provide support and promote the self-esteem and emotional well-being of each family member during the process of discovery, social intervention, adjudication, resocialization and rebuilding of the family.

Sexual abuse should be suspected if:

- The child reports sexual activities with parents, other relatives, friends of the family or other adults;
- The child shows an early and exaggerated awareness of sex, with either seductive interest or fearful avoidance of close contact with others;
- There is tearing, bruising or specific inflammation of the mouth, anus or genitals, or evidence of semen (oral, rectal, vaginal);
- There is venereal disease of the eyes, mouth, anus or genitals of a child or adolescent;
- A girl is pregnant and appears extremely fearful, distressed or secretive;
- A child with behavioral problems hints at conflicts at home, but seems quite hesitant or fearful to talk about the problem; and/or
- A child is known to be the victim of other forms of abuse.

Exploitation/child pornography

Although it is impossible to make an exact assessment of the number of California children who have been the victims of pornographic exploitation, it is clear that by even the most conservative estimate, the number is alarmingly high.

The difficulty in assessing the number of children involved in pornography is compounded by a number of factors. First, the evidence indicates that in the vast majority of cases, this kind of sexual exploitation goes unknown to even the parents of the children. Additionally, the ever increasing number of juvenile runaways who have migrated to California in recent years, together with the associated and growing problem of juvenile prostitution, contribute to the difficulty in making this assessment. The runaway juvenile, alone and without support in a strange city, is a particularly attractive target as a model for pornography. Finally, some parents use their own children to produce this material. Therefore, the only reasonable conclusion which can be drawn is that the number of chidren involved is substantial. Moreover, the number appears to be growing.

In recent years, police have been able to increase the number of arrests in California of persons suspected of producing and disseminating child pornography. These arrests have resulted in literally thousands of films, magazines and still photographs being seized which depict children (some as young as four years old) involved in sexual activity. However, the problem still outweighs the arrests by a large margin.

The distribution of pornographic material has been limited, in part, due to Labor Code Sections 1309.5–1309.6 and Penal Code Section 311.4, which now provide essentially:

- that anyone convicted of promoting, employing, using or coercing a minor to perform a sexual act in a film or photograph is guilty of a felony;
- for a mandatory state prison term of three, six or eight years for a person convicted of involving a minor 13 years of age or younger (or a three to five year prison term for involving minors 14 or 15) in a film or photograph depicting sexual conduct; and
- that wholesale distributors of films depicting minors engaged in sexual conduct must keep records indicating names and addresses of those from whom the material is obtained (producers). Failure to keep such records for the specified time period is a misdemeanor offense which is punishable by a maximum $5,000 fine for each violation.

In addition, 1982 legislation amended the Child Abuse Reporting Law (P.C. 11165(1), 11166(c)) to include, as mandated reporters, "any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct . . ."

(For further details on this law, see "The legal aspects.")

Child molesters

In contrast to what is perceived as forced sexual abuse or exploitation, this section deals with child victims of sexual abuse who are usually consenting partners, or noncomplaining victims.

The concept of these children as consenting partners or noncomplaining victims does not fit with society's image of an unsuspecting child being lured into a car with a candy bar. A large proportion of these willing children includes runaways, who are reasonably "streetwise," and emotionally troubled children who trade themselves for money or for what they perceive as attention and affection.

The label "child molester" refers to a male or female (but most often, an older adult heterosexual male) who receives sexual gratification from young children. A male (adult homosexual) or female who receives sexual gratification from young boys is commonly referred to as a "chickenhawk."

Child molesters usually have a specific age preference and are "benevolent keepers" of their child victims. Many suspects are, in fact, wealthy and financially secure men or women who can afford to provide elaborate gifts for their victims. For most of their time together, the suspect caters to the child's wants and needs in an exaggerated caring relationship. In return, the child willingly submits to sexual activity. While this perverse form of attention and affection may be especially appealing to an isolated runaway child, the danger of such sexual exploitation is certainly not limited to runaways. It can and does represent a danger to any child whose parent/caretaker fails to provide necessary attention and affection.

The use of pornographic material by the child molester is extensive. This is evidenced by the ever-increasing volume of pornographic material seized in investigations of sexual exploitation cases. The statements of victims corroborate this evidence. Pornographic literature is a device by which a suspect can steer a normal conversation with a juvenile toward a sexual theme. It is used to stimulate both suspect and victim and to assist in breaking down inhibitions. The nature of the literature usually will correspond with the suspect's particular sexual inclinations, and the models used are usually of the age the suspect prefers.

In 1972, a pamphlet entitled "Where the Young Ones Are" sold 70,000 copies in California at $5 each. The names and addresses of almost 400 places across the country where ". . . the young can be found" were listed. Other pamphlets which have been seized by law enforcement provide suggestions to child molesters about what to do, where to go and "come-ons." They include cartoons depicting sexual activity to which a child can relate.

For a solution to be found, there needs to be an increased awareness and understanding of the growing problem of sexual exploitation of children.

MORE ON THE EXTENT OF THE PROBLEM

Statistical data to describe the magnitude of child abuse and neglect across the nation are, at best, inconsistently used. The probability that child abuse and neglect are leading causes of childhood deaths seems to be generally accepted. However, official state and national statistics identify causes of death from abuse and neglect mainly in medical terms (per "International Classification of Diseases" listings). For instance, a child whose death is officially recorded a pneumonia may, in fact, have contracted the illness as a result of being poorly clothed, fed, bedded or medically neglected. Thus, many child abuse experts feel that abuse or neglect may well be the underlying cause in many cases where the cause is medically described.

On the basis of existing information, national estimates indicate that over one million American children are suffering from abuse and/or neglect at any given time and that approximately one-quarter of these will be injured for life as a result. The number of reported cases of child abuse and neglect has been increasing steadily in the last several years. It is uncertain whether this trend reflects an actual increase in the number of children being mistreated, the increased exposure of abuse, the increase in the number of people willing to report, or a combination of all three.

The gathering of information and statistics is recognized as a problem at most levels of government. Efforts, however, are being made to develop systems which will reflect more accurately the scope and degree of child abuse and neglect.

The Department of Justice statewide child abuse index only represents a portion of all child abuse cases. Generally, only those cases constituting severe abuse are represented in this index. "General neglect" is reported only to the local child welfare agency and is not represented in this index. Therefore, the statistics reflect only the more serious cases of child abuse. (For example, social services statistics show that neglect cases represent over 50 percent of their total caseload versus 20 percent of the Justice index caseload.) However, reviewing the Justice index statistics can be revealing, as long as these circumstances are considered.

Of the cases reported to the Department of Justice index for the calendar year 1982, 42 percent were physical abuse, 20 percent were in the "severe neglect" category and 30 percent were sexual abuse. The "age distribution" factors from those 1982 cases are also of interest. The figures show that the heaviest incidence of physical abuse takes place between 0–4 years of age, declines in the 5–8-year-old range and continues to diminish between the ages of 9–15. After 16 years of age, physical abuse percentages drop off sharply. In the category of "general neglect," the heaviest incidence of neglect is between the ages of 0–4. The percentage pattern is similar to physical abuse and diminishes sharply after the age of 16. In contrast, sexual abuse is heaviest between the ages of 9–12, with the percentage being slightly less in the 5–8 and 13–15 age groups. Sexual abuse is lower in the 0–4 category and in the 16+ years age group.

In reviewing available data from a variety of sources, it is generally recognized that a great deal of reported abuse and neglect is committed against children under four years of age. It cannot be stressed strongly enough that *we have to rely on third-party reporting of these cases.*

The problem of adolescent abuse is often underestimated. For a variety of reasons, adolescents are frequently bypassed in the protective system. First of all, they are considered to be less "at risk" than younger children who can be severely injured by parents or caretakers. Secondly, adolescents are seen as having options increasingly available. They are not considered as helpless as younger children. They are able to leave the house until the parent/caretaker "calms down." The adolescent can fight back or, in some cases, "take it" with only temporary discomfort. However, many of the child prostitutes who walk the steets at night or the younsters involved in alcohol and drug abuse are victims of physical or sexual abuse and neglect at home. Thus, adolescents may have more options, but they are not necessarily positive options. Adolescent abuse remains a serious problem which deserves attention and action.

Who are the child abusers?

Child abuse, contrary to popular belief, occurs in all cultural, ethnic, occupational and socio-economic groups.

Studies indicate that a variety of factors are associated with child abuse. Many of these factors apply to and characterize the general population (such as social isolation, transiency and other factors discussed in this section). Data accumulated from the cases reported to the Department of Justice central index indicate that women and men physically abuse children in virtually equal numbers.

Frequently, abusing parents or caretakers themselves have experienced deprived childhoods. Consequently, they often create the same destructive environment for their children that their parents provided for them. Without intervention, these negative life patterns can be transmitted for generations.

Abusing people often reverse roles with their children. That is, they expect and demand love and care from their offspring, but have difficulty in returning these emotional necessities to their children. These people are either crippled from child abuse experiences of their own or simply lack understanding of children's basic needs and capabilities.

Studies have shown that a mother who has little or no contact with her infant immediately after birth may be more likely to abuse or neglect her child. Children born prematurely, by Caesarean section or with an illness may run a greater risk of maltreatment because the early "bonding" between mother and child may be disturbed by separation due to prolonged hospitalization of either the mother or the child. Also, a child born with defects or other disfigurements is often singled out for emotional or physical abuse. A child viewed as different or slow often becomes a scapegoat.

Child abuse has also been related to the decline of the "extended" family. An extended family is best described as that in which a number of immediate relatives reside in the same household or live close by and are readily available in times of need. In contrast, the "nuclear" family, more prevalent in today's transient society, generally consists of mother, father and child with few relatives close enough to provide immediate support. There are fewer sympathetic ears listening and helping with frustrations and fewer potential baby sitters or persons to assist parents with child rearing. Mobility and the degree of transiency characteristic of the nuclear family also means parents have fewer close friends upon whom to depend. Abusing families have a tendency toward social and emotional isolation.

Child abuse is seldom the result of any single factor. Rather, a combination of circumstances and personality types precipitates acts of abuse. For example, the existence of one or more of the following factors could trigger abusive acts: emotional stress, such as marital or employment problems; a predisposition toward maltreatment (perhaps having been an abused child); a strong belief in corporal punishment; or a lack of constructive outlets for tension, anger or aggression. These factors are compounded by any act of the child which, for whatever reason, triggers the contempt or resentment of a parent or caretaker.

The child abuser is typically a recidivist; that is, the abuser tends to repeat the abuse. The abuser is also typically an escalator in that the amount and severity of the abuse tends to increase. Because of these characteristics, early identification, reporting and intervention are essential and vital.

The legal aspects

Child abusers may be arrested, prosecuted, fined, imprisoned or instructed to take part in treatment programs. The following are summaries of California Penal Code sections pertaining to crimes against children:

Penal Code Section 11165 (partially summarized) – is part of Article 2.5 – the child abuse reporting law. Section 11165 provides that a child is any person under 18 years of age, and "child abuse" is evidenced by:

1) Physical injury which is inflicted by other than accidental means on a child by another person.
2) Sexual assault of a child.
3) Willful cruelty or infliction of unjustifiable punishment or mental suffering (any act or omission proscribed by Penal Code Section 273a).
4) Cruel or inhuman corporal punishment or injury resulting in a traumatic condition (Penal Code Section 273d).
5) Severe and general neglect of a child.
6) Abuse in out-of-home care, including "negligent" abuse.

PHYSICAL AND EMOTIONAL ABUSE AND/OR INJURY

Penal Code Section 11165(c) (neglect – summarized) "Neglect" means the negligent treatment or maltreatment of a child resulting from acts or omissions of the *caretaker*. Neglect can be "severe" as where the caretaker fails to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive or endangers the health or person (for example, the *intentional* failure to provide adequate food, clothing or shelter). However, neglect can also be "general," as where the child does not

suffer physical injury through the *negligence* of the caretaker, but the child is not provided adequate food, clothing, shelter or supervision.

Penal Code Section 270 (failure to provide – summarized)
If a *parent* of a minor child willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter or medical assistance, or other remedial care for his or her child, or fails to protect a child from severe malnutrition or medically diagnosed nonorganic failure to thrive (Penal Code Section 11165), he or she is guilty of a misdemeanor punishable by a fine not exceeding $1,000, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Penal Code Section 273a (willful cruelty or unjustifiable punishment – summarized)
Any person, who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such a child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail for not exceeding one year, or in state prison for two, three or four years.

Any person, who under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

Penal Code Section 273d (infliction of traumatic injury – summarized)
Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than one year, or in the state prison for two, three or four years.

SEXUAL ASSAULT
As defined by Penal Code Section 11165, sexual assault includes conduct in violation of the following sections of the Penal Code:

Penal Code Section 261 (rape – summarized)
– is defined and interpreted by the courts as an act of sexual intercourse with a victim who is not the spouse of the perpetrator where:
1) the victim was unable to legally consent due to the influence of drugs, anesthetics or intoxicants; or
2) the victim was unable to legally consent due to unconsciousness of the nature of the act either as a result of mental infirmity or as a result of misrepresentation by the perpetrator regarding the type of act engaged in; or
3) the victim believed through deception that the perpetrator was the victim's spouse; or
4) the resistance by the victim was overcome by force or threat of force or fear of immediate unlawful bodily injury on the victim or on the person of another; or
5) no resistance was offered by the victim due to fear of immediate unlawful bodily injury on the victim or on the person of another.

Penal Code Section 264.1 (rape in concert – summarized)
– is defined as voluntarily acting in concert with another person, by force or violence and against the will of the victim, to commit an act of rape, either personally or by aiding and abetting such other person.

Penal Code Section 285 (incest – summarized)
– is defined and interpreted by the courts as marriage or acts of intercourse between the following persons: Parents and children; ancestors and descendants of every degree; brothers and sisters of half and whole blood; and uncles and nieces or aunts and nephews. (Civil Code Section 4400.)

Penal Code Section 286 (sodomy – summarized)
– is defined and interpreted by the courts as sexual contact between the penis of one person and the anus of another person where:
1) one of the participants is under 18 years of age; or
2) the act is accomplished against a victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person; or
3) any person aids in the commission of such an act and the act is accomplished against the person's will as described above; or
4) the victim is unconscious of the nature of the act and this is known to the person committing the act; or
5) any person, who *merely participates* in such an act, while confined in state prison or a local detention facility not devoted exclusively to the detention of minors, *with any person of any age*, regardless of whether the act is consentual or whether or not accomplished by force or fear as described above.

Penal Code Section 288 (lewd and lascivious acts with a child – summarized)

– is defined and interpreted by the courts as causing any touching of a child under 14 years of age for the purpose of arousing, appealing to or gratifying the lust, or the passions, or the sexual desires of the person or the child. (CALJIC 10.30.) Touching may be done by either the perpetrator or by the child at the direction of the perpetrator. (*People* v. *Austin* (1980) 111 Cal.App.3d 110, 114–115.)

Penal Code Section 288a (oral copulation – summarized)

– is defined and interpreted by the courts as the act of copulating the mouth of one person with the sexual organ of another person where:

1) one of the participants is under 18 years of age; or
2) the act is accomplished against a victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; or
3) any person aids in the commission of such an act and the act is accomplished against the person's will as described above; or
4) the victim is unconscious of the nature of the act and this is known to the person committing the act; or
5) any person, who *merely participates* in such an act, while confined in state prison or a local detention facility not devoted exclusively to the detention of minors, *with any person of any age*, regardless of whether the act is consentual or whether or not accomplished by force or fear as described above.

Penal Code Section 289 (penetration of genital or anal openings by foreign objects – summarized)

– is defined as the slightest penetration of a genital or an anal opening of another by a foreign object, substance, instrument or device where such penetration is accomplished by force, duress, or threat of immediate and unlawful bodily injury on the victim or on the person of another. Parts of the body are not classified as foreign objects, substances, instruments or devices.

Penal Code Section 647a (child molestation – summarized)

– is defined and interpreted by the courts as any act motivated by unnatural or abnormal sexual interest in children, which act would reasonably be expected to disturb, irritate, trouble or offend the victim, whether or not the victim is so affected. No touching of the victim is necessary. (CALJIC 16.441 and cases cited therein.)

Note: Although the child abuse reporting law does not specifically require reporting of other sexual offenses, such as assault with intent to commit rape and attempted rape, reports of these crimes may by required as general child abuse as are other crimes such as murder, mayhem or other assaults.

CHILD PORNOGRAPHY

Penal Code Section 311.2 (pornography, depicting sex acts by minors – summarized)

Existing law prohibits the importation, sale, or distribution in this state, or the possession, preparation, publication, or printing with the intent to distribute or to exhibit to others, or the offer to distribute, or the distribution or exhibition to others, of obscene matter.

Any person who possesses, prepares, publishes or prints for commercial consideration any obscene matter depicting a minor under 18 years old engaging in or simulating defined sexual conduct is guilty of a felony punishable by a state prison sentence of two, three or four years or up to a $50,000 fine or both. These sanctions also apply to any person who brings or causes such matter to be brought into this state or who offers to distribute, distributes or exhibits it to others for commercial consideration.

Penal Code Section 311.3 (depicting sexual conduct of minors by film, etc. – summarized)

With certain exceptions a person who knowingly develops, duplicates or exchanges any film, photograph, video tape, negative or slide depicting a child under 14 years of age engaged in defined sexual conduct is guilty of *sexual exploitation* and subject to a fine of up to $2,000 or imprisonment in the county jail for not more than one year, or both. A person previously convicted of a crime involving obscene matter (violations of any section of Penal Code Chapter 7.5. Obscene Matter) is subject to imprisonment in the state prison.

Penal Code Section 311.4 (minors and pornography – summarized)

Existing law makes various restrictions on the performance of sexual acts and prohibits employment of minors under 16 years of age in "obscene," "indecent" or "immoral" activities.

This law (in addition to what was mentioned in "Exploitation/child pornography") prohibits involving or engaging or persuading, inducing or coercing any person under the age of 16 years in specified actual or simulated sexual conduct for commercial purposes. It also makes it a felony for any parent or guardian to permit a person under the age of 16 under his or her control to engage in such activity.

These acts are punishable by imprisonment in the state prison for three, four or five years. If the minor is under 14 years the punishment is three, six or eight years in the state prison.

20

As previously mentioned, the law also requires persons engaged in various activities related to the sale or distribution of films, photographs, slides or magazines depicting minors engaged in sexual conduct to keep, for three years, confidential records of the names and addresses of persons from whom such material is obtained. Retailers are required to keep, for three years, records for persons from whom such material is acquired. These records must be available to law enforcement officers on request. Failure to keep such records could result in civil penalties of up to $5,000 for each violation. (See Labor Code Section 1309.5 and 1309.6 and Penal Code Section 311.4 for the complete text.)

OTHER CHILD ABUSE CRIMES

Although the foregoing codes were designed specifically for the protection of children, all crimes defined in the Penal Code are intended to protect children as well as adults.

CIVIL PROTECTIONS

Welfare and Institutions Code Section 300 (dependency proceedings)

California Welfare and Institutions Code Section 300 provides:

"Any person under the age of 18 years who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge such person to be a dependent child of the court:

"(a) Who is in need of proper and effective parental care or control and has no parent or guardian, or has no parent or guardian willing to exercise or capable of exercising such care or control, or has no parent or guardian actually exercising such care or control. No parent shall be found to be incapable of exercising proper and effective parental care or control solely because of a physical disability, including, but not limited to, a defect in the visual or auditory functions of his or her body, unless the court finds that the disability prevents the parent from exercising such care or control.

"(b) Who is destitute, or who is not provided with the necessities of life, or who is not provided with a home or suitable place of abode.

"(c) Who is physically dangerous to the public because of a mental or physical deficiency, disorder, or abnormality.

"(d) Whose home is an unfit place for him by reason of neglect, cruelty, depravity, or physical abuse of either of his parents, or of his guardian or other person in whose custody or care he is."

Under the provisions above, a police officer may, in order to protect a child under 18 from further abuse or neglect, take a child into temporary protective custody without a warrant. (Welfare and Institutions Code Section 305.)

The officer may transport the child to either a hospital or special holding facility, or under Welfare and Institutions Code Section 307.5, to an approved community service program for abused or neglected children, *with or without parental consent*, if abuse is suspected. Within 48 hours of taking a child into protective custody, a petition must be filed with the juvenile court to declare the child a dependent of the court. The petition is usually filed by the county welfare department or department of social services. In some counties, the probation department still performs this function and in some, the district attorney or private counsel appointed by the county will do so. A copy of the petition is sent to the parents, guardian or other person having care or custody of the child. A dependency petition may also be filed without first taking the child into protective custody.

A jurisdictional hearing in the juvenile court must then be held within 15 to 30 days. A judge decides at that point if the child comes within the description of a dependent child of the court as set forth in Welfare and Institutions Code Section 300. If the court finds that the minor is such a person, a disposition hearing is scheduled, usually within 15 days of the jurisdictional hearing. The court may then make ". . .any and all reasonable orders for the care, supervision, custody, maintenance and support of such minor including medical treatment, subject to further order of the court." (Welfare and Institutions Code Section 362).

If a child is declared to be a dependent of the juvenile court, the court may order the child to remain at home under the supervision of the welfare or social services department (or probation department, depending on the county), or the court may take custody from the parents and order the child to be placed in "out-of-home" care. Taking custody is usually a temporary action. Children found to be dependents of the court, who are not reunited with their parents, are usually placed with relatives, in foster care or in other child care facilities. Periodic hearings are held by the juvenile court to determine when and if parents may regain custody of their child. A formal hearing must be held at least once a year for each child.

Welfare and Institutions Code Section 318 (appointment of attorney – summarized. See Appendix III for full text.)

- The court shall appoint an attorney to represent the child in a caretaker fitness hearing (Welfare and Institutions Code Section 300(d)) and *may* appoint the district attorney to represent the minor.
- Counsel appointed by the court shall represent the minor at the detention hearing and all subsequent proceedings.
- Any counsel entering an appearance on behalf of a minor shall continue to represent that minor unless relieved by the court upon substitution of other counsel.

- The child's counsel shall be charged with representing the child's interests. He/she shall make further investigations as deemed necessary to ascertain the facts, including interviewing witnesses. Counsel can introduce and examine his/her own witnesses and make recommendations to the court concerning the child's welfare, including a civil action pursuant to Penal Code Section 11172(b) against a person who has failed to make a mandatory report.
- Counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. Counsel shall also be given access to records maintained by hospitals or by medical or nonmedical practitioners or by child care custodians.
- Counsel shall also have access to relevant information in the Department of Justice index of child abuse reports and may investigate for violation of the child abuse reporting law (Welfare and Institutions Code Section 318).

It should be noted that the law mandates treatment for troubled families by allowing the court to require parents or guardians to receive counseling or other assistance. This occurs when a minor is adjudged a dependent of the court, and the court has ordered that the parent or guardian retain custody subject to supervision. Depending on the situation, the court has the option to order treatment, or treatment is mandated. Welfare and Institutions Code Section 362.5(d) applies to and explains these situations:

> "...When a minor is adjudged a dependent child of the court, on the ground that he is a person described by [Welfare and Institutions Code] Section 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer or social worker, the parent or guardian *may* be required, and *may* be ordered, to participate in a counseling program designated by the court. When a minor is adjudged a dependent child of the court on the ground that he is a person described by subdivision (d) of Section 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer or social worker, the parent or guardian *shall* be required to participate in a counseling program designated by the court." (Emphasis added.)

Children are entitled to a permanent home. The law provides (in Civil Code Section 232) that if parents or guardians are unable (for specified categories of reasons, such as abandonment, chronic alcoholism or drug abuse) to resume custody and care of the minor within an appropriate period of time, their parental rights can be terminated and the minor placed for adoption.

It should be noted that while the juvenile court deals primarily with the immediate welfare of the child, criminal charges may be brought against the abusing adult in a concurrent criminal action. An offender convicted and placed on probation thus has a dual incentive to cooperate in treatment. The abusing adult not only faces further restrictions on parental rights, but also the possibility of probation violation and the resulting imprisonment.

REPORTING CHILD ABUSE

While *everyone* should report suspected child abuse and neglect, Article 2.5 of the Penal Code provides that it is a crime for certain professionals and laypersons who have a special working relationship or contact with children *not* to report suspected abuse to the proper authorities. Following are excerpts and summaries of sections from this article regarding child abuse reporting (see Appendix II for full text):

> "...any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows of reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, 'reasonable suspicion' means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse." (Penal Code Section 11166.)

Failure to report by telephone and in writing within 36 hours is a misdemeanor punishable by six months in jail or a $500 fine, or both. (For those required to report who do not do so, there may also be civil liabilities. See "Medical community" under "Professional responsibilities" for a discussion of the *Landeros* v. *Flood* case.) Basically, this penalty ensures that those required to do so will report all suspected incidents of child abuse immediately to a child protective agency (the local police authority, sheriff's department, juvenile probation department or the county welfare department).

Those required to report should be aware that mere reporting does not always mean that a civil or criminal proceeding will be initiated. However, all reports are investigated.

Those agencies to whom reports are made are obligated to follow procedures in the reporting law which ensure that all reports of suspected abuse or severe neglect reach the Department of Justice statewide central index. Reports must be made on

the appropriate Department of Justice forms. (See Appendix I for forms.)

Not all counties are alike in their make-up, size, etc. Therefore, it should be noted that there will be some differences in how each county implements the reporting and handling of child abuse and neglect cases.

It is important to note that reporting under the law is an *individual* statutory responsibility, and that no one should in any way interfere with an individual's legal obligation to report. Additionally, no individual required to report is relieved of his or her obligation by depending on another person or a supervisor to report the suspected incident.

Those professionals required to report by Penal Code Sections 11165 and 11166 are:

- *"Child care custodian"* means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensed day care worker; an administrator of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer, as well as others.

  Employees of community service programs or organizations for abused or neglected children under contract or agreement with a county to provide shelter, care or counseling are also considered "child care custodians." (Welfare and Institutions Code Section 307.5.)
- *"Medical practitioner"* means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code. Physician and psychotherapist *privileges are inapplicable.* The doctor or psychotherapist must file a report as mandated even if the patient does not want him to. For example, if a patient tells a doctor or psychotherapist that his/her spouse is abusing their child, but the patient would like this fact to be kept in strict confidence because he/she does not want the spouse arrested, the abuse must be reported in any event. The same is true if a child patient makes a statement about abuse of a sibling or of himself/herself.
- *"Nonmedical practitioner"* means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; a religious practitioner who diagnoses, examines or treats children.
- *"Child protective agencies"* are police or sheriffs' departments, county probation departments and county welfare departments.
- *"Commercial film and photographic print processor"* means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

Persons required to report are not liable either in civil damages or for criminal prosecution as a result of making a report. Other persons are not liable either civilly or criminally, unless it can be proven that a false report was made and that the person knew that the report was false. (Penal Code Section 11172. See Appendix II for full text.)

When making the telephone report, the following information is to be provided:

- name of the child;
- whereabouts of the child;
- character and extent of injuries and/or molestation, and any other information which led person to suspect child abuse;
- age of child; and
- address of the child and parents.

In addition to the standard Department of Justice form, the Attorney General has adopted a special, uniform reporting form entitled "Medical Report – Suspected Child Abuse," which medical personnel are required by law to complete, even absent the consent of the child's parent or caretaker. (See Appendix V for sample of this form.)

This reporting form was designed to elicit a sufficient amount of data concerning suspected child abuse, but at the same time not to be unduly burdensome to the reporting medical personnel and thereby discourage its use. It is also designed to be educational for medical personnel who come in contact with possible child abuse. The form is printed by the state government, and copies are available through county welfare and probation departments and law enforcement agencies.

WHAT HAPPENS TO THE REPORTS?

Reports are investigated by either the local law enforcement agency or by the county children's protective services agency assigned to handle dependency cases (the welfare department or juvenile probation department). If the investigation reveals evidence of criminal child abuse, the local law enforcement agency has the authority to: take the child into protective custody, file criminal charges against the parent(s) or responsible parties and/or to refer the case to probation, welfare or another service agency (counseling, church, etc.). Ideally, this decision is made after consultation with representatives from other disciplines.

If an investigation does not reveal evidence of criminal child abuse, but suggests other family problems or a potential abuse situation, the children's protective service agencies can attempt to intervene and provide appropriate services to, it is hoped, prevent the crisis before it happens.

Copies of all written reports received by welfare and probation agencies (except reports involving only "general neglect" as defined in Penal Code Section 11165(c)(2)) are to be filed immediately, or as soon as possible, with the local law enforcement agency having jurisdiction. Copies of all written reports received by law enforcement are to be filed immediately, or as soon as possible, with the county children's protective services agency (welfare or probation). So essentially, the reporting law is designed to ensure that local law enforcement and county social service agencies receive all reports (except general neglect), whether initially reported to them or to an alternative agency.

In turn, all child protective agencies (law enforcement, welfare and probation) are required by law to file their reports (except "general neglect" reports) with the Child Abuse Unit in the Bureau of Criminal Statistics and Special Services, State Department of Justice, Post Office Box 13417, Sacramento, California 95813 (Penal Code Section 11169). The unit then enters the report into the statewide central index and searches the index to determine whether there is a record of prior abuse involving the victim or suspect. The reporting law enforcement agency or local juvenile probation or welfare department is notified immediately of any prior abuse reports.

It is essential that the initial child abuse report prepared by the mandated reporter, and the preliminary investigation report prepared by the investigating law enforcement, welfare or probation agency, be sent attached together to the Department of Justice to ensure that all necessary information is available for searching and updating the index.

An obvious history of abuse is not easily spotted because child abusers tend to be recidivists who take their children to different doctors or hospitals for treatment of each new injury. Therefore, the index is vital to investigatory agencies to provide information on prior incidents for purposes of early identification and prevention. A "User's Guide" to the Central Index has been developed by the Department of Justice. This Guide is available only to Child Protective Agency representatives (county probation and welfare departments and law enforcement agencies).

Professional responsibilities

LAW ENFORCEMENT

By the very nature of their community role and their legal authority, the police and sheriff's departments are the principal agencies responding to family crisis situations. The responding officer will decide whether to take the child into protective custody (Welfare and Institutions Code Section 305), to arrest the parents/caretakers, to seek the filing of criminal charges or to refer the case to probation, welfare (child protective services) or another appropriate agency. Final disposition should be made after consultation with representatives of other disciplines. In some California law enforcement agencies, the child abuse units include full-time social service workers who respond to calls with the officers as an investigation team.

The investigating officer seeks answers to the following questions when determining whether child abuse actually occurred:

- Is this an isolated incident, or is there a history of abuse, neglect or family disturbances? (Verification of prior reports can be made through record checks.)
- Is there perceived danger to the child or other children in the home?
- How was the incident reported? Who reported, if known?
- What is the emotional and mental attitude of the parents?
- What is the general condition of the home?
- Are the nature and severity of injuries indicative of abuse or neglect?
- What is the general behavior of the parents?
  - Are the explanations of the child's injuries inadequate?
  - Do the parents/caretakers vehemently place the blame upon others?
  - Are the parents/caretakers apathetic or insensitive to the child's condition?

Once the investigating officer is inside the home, he should isolate the child, and with sensitivity, question him or her as to the cause of the injuries. The officer should also examine the child thoroughly for discoverable injuries, such as broken limbs, cuts and bruises. Depending on the age of the child, a visual examination of the child's anatomy should be conducted to ascertain the existence of burns on the buttocks or bottom of the feet or injuries to other areas hidden by clothes. Very often it is impossible for an officer or a layperson to detect an injury; for example, when the injury is not visible, as in the case of internal hemorrhaging. Head injuries are particularly dangerous and often detectable only by x-ray. Therefore, if an officer has any reason to suspect a head injury, the child should be taken to a medical facility for an examination. Additionally, a complete examination of all children in the family is advisable when child abuse is suspected.

If the preliminary investigation indicates abuse, the officer should take the child to a facility that has doctors trained to detect child abuse injuries. The family doctor, or even the doctor at a local clinic, may be hesitant to diagnose a case as child abuse or may not be cognizant of abuse symptoms. The child should be carefully and sensitively told where he/she is being taken, why this is being done and what to expect.

While in the home, the officer should be alert for possible evidence, such as a broom handle or belt, that may be needed in the event criminal prosecution is in order. The statements of all residents of the home should be taken separately and as soon as possible, especially the victim's statement. When appropriate, the officer should ask the victim what object(s) was used to inflict the injuries. This will aid the physician in treating the victim, and the officer may lawfully be able to obtain the object(s) as evidence.

It may be difficult for an officer to corroborate his suspicions during the investigation because parents usually protect each other when asked questions about abuse. Frequently, however, the parents'/caretakers' stories as to how a child received injuries will be inconsistent with the nature of the injuries. The officer should note the parents'/caretakers' versions and relay them to the examining physican. The physician may conclude that the injuries could not have happened in that manner.

The officer should take photographs of the child's injuries and the home conditions. In cases of neglect, investigators should photograph the "presence" of unhealthy conditions (filth or dangerous conditions), as well as the "absence" of healthy conditions (empty refrigerator, no toilet, etc.). Photographs serve as potent incriminating and corroborating evidence, especially where the only "witness" is the victim.

If possible, a drawing should also be made of the body (scars, lacerations, bruises, burns, etc.). In the drawing, the number and extent of injuries should be documented. (See Department of Justice Report Form 900 in Appendix I, for example.)

The immediate and future protection of the child is often dependent on the completeness and accuracy of the initial investigation and report. The investigating officers should not be thinking only of prosecution, but be concerned primarily with the child's protection. Police officers investigating child abuse cases must have an open-minded, compassionate attitude and must attempt to remain as objective and neutral as possible. It is important that an officer refrain from punitive or accusatory remarks. Although the welfare of the child is the primary concern, it is important to recognize the rights and dignity of the parents as well. Furthermore, the proper attitude may elicit cooperation.

As in all areas of criminal law, all searches, seizures and arrests made in the course of child abuse investigations must comply with the requirements of the Fourth Amendment. Over the past 10 years, however, California courts have been somewhat more willing to find searches reasonable due to the dangerous nature of the crime of child abuse in all its forms. This attitude has been clearly expressed in case law. The seriousness of the crime and helplessness of the potential child victim have led some courts to find that emergency circumstances require a warrantless entry or in *extreme* cases to excuse *Miranda* requirements. Therefore, when an officer has reasonable cause to believe a child is in real and immediate danger, he should not hesitate to act on behalf of the child. If abuse is suspected, the officer should not hesitate to take the child for medical treatment or examination.

The Commission on Peace Officer Standards and Training has published guidelines and protocol for investigations of child abuse and of child sexual assault. For further detailed legal information regarding search and seizure and the right of entry in child abuse investigations, the county district attorney should be consulted. Additionally, the Attorney General's Office has prepared a summary of case law in this area. (See "The rules of search and seizure as they apply to the investigation of child abuse crimes," Appendix V.)

LEGAL COMMUNITY

In addition to the adult court which handles the criminal cases of adult offenders, and the juvenile court which makes determinations about dependent children as previously discussed, the "legal community" is basically composed of three additional agencies: the county district attorney, the county counsel and the city attorney.

The district attorney, or in appropriate cases the city attorney, prosecutes cases of child abuse and neglect in the criminal adult court. Whenever appropriate, the district attorney will appear in the juvenile court on behalf of the agency that filed the petition for the child in the dependency proceeding (Welfare and Institutions Code Section 300 cases).*

The number of child abuse reports which result in arrests and convictions increases substantially when specialized prosecution teams are used. However, a serious gap still lies in the number of cases that go unreported.

Depending on the county or jurisdiction, the judge, prosecutor and defense attorney may agree to defer prosecution if the suspect is receptive to psychotherapy, family counseling or other rehabilitative help; or they may prosecute and then agree to probation supervision. Prison sentences for child abuse usually are given only for murder and severe abuse cases or in instances where the person has had previous arrests or convictions for child abuse or other serious crimes. (See "Treatment of child abusers and the abused.")

PROBATION

When ordered to do so by the court, the probation department investigates adult offenders convicted of child abuse or neglect. A court report outlining the offender's social history, prior record, offense and attitude is submitted. The report also evaluates suitability for probation and, in appropriate cases, recommends probation with specific conditions aimed at control and treatment. Psychiatric or psychological treatment, family treatment and/or enrollment in self-help programs are typically recommended in these cases, along with the other standard conditions of probation.

If probation is granted, a probation officer enforces the conditions ordered by the court, monitors the offender's progress in treatment and initiates appropriate corrective action if any of the conditions are violated.

In order to assure the child's safety and welfare, the supervision officer also works cooperatively with the protective services worker assigned to the case. Their assessment of the child's needs and the offender's response to treatment is of significant influence in determining when, and if, the child will be returned to the home.

In some instances, a state prison sentence is recommended to ensure community protection. In sexual abuse cases, if psychiatric findings indicate necessity for such treatment, the probation report may recommend referral to county mental health for further action and possible commitment to a state hospital.

MEDICAL COMMUNITY

Doctors, nurses, dentists and all other types of professional medical personnel play a crucial role in child abuse detection. Medical techniques for diagnosis are continually being developed, especially in the field of radiology. X-rays showing numerous fractures at varying degrees of healing indicate strongly that type of abuse often called the "battered child syndrome." It should be noted that specified medical personnel may take skeletal x-rays of a child, for purposes of diagnosing and determining the extent of possible child abuse, without the consent of the parent or guardian. (Penal Code Section 11171(a).)

In addition to the descriptions contained in earlier sections of this publication, other indices of abuse that hospitals and medical personnel should consider are:

- history of repeated injuries;
- delays in seeking medical care;
- discrepancies in explanations of injuries, or inconsistencies between explanations, history and the nature of injuries;
- injuries not reported by parents and found in physical examination and x-rays;
- generally inadequate nutrition and poor health;
- the child is extremely passive, compliant or fearful;
- evidence of sexual activity or abuse;
- bruises or broken bones in an infant or toddler;
- x-rays showing chip or metaphyseal fracture in joints (a result of twisted limbs);
- head injuries;
- abdominal and/or internal injuries;
- behavior of parents (overreact or underreact; cannot remember how it happened; insensitive to child's pain or condition; refuse consent for further examination of child; blame others; appear detached or apathetic).

Medical personnel should also be alert to "hospital shoppers." These are people who, for no apparent reason, have brought an injured child to a hospital outside their community when their own community has fully equipped facilities. Medical records sometimes reveal a history of hospital or doctor "shopping" which, by itself, may not be indicative of suspected abuse, but would be a factor for consideration.

While some people in the medical community may think child abuse is a problem to be treated without involving law enforcement, it should be emphasized that the law requires doctors and nurses (and other mandated reporters previously listed) to report abuse to a child protective agency (the police or sheriff, county probation or county welfare). Not only is

---

**In Los Angeles County, the county counsel has a special division which represents the Los Angeles County Department of Public Social Services under Welfare and Institutions Code Section 300 in appeals, in rehearings and in adoption referral hearings. Various county district attorneys' offices have established special sections or units for handling cases of child abuse.*

failure to report a criminal offense, but it is also a grave breach of professional responsibility to both the child and parent.

Medical professionals and other mandated reporters may be subject to civil damage suits if they fail to report. In the case of *Landeros* v. *Flood* (1976) 17 Cal.3d 399, an infant, Gina, was brought into a hospital with injuries, treated and released back to her mother. Subsequently, she was treated for new and more serious injuries by a second doctor who reported the injuries as suspected child abuse. The child was made a ward of the court and a guardian ad litem was appointed. The guardian ad litem then instituted a suit on behalf of the child against the first doctor for failure to report as required by law. The California Supreme Court, reversing a lower court decision which dismissed the complaint, held that the complaint stated a cause of action based on a failure to report as required by statute. The case held that failure to perform the statutorily imposed duty to report raises a presumption that a defendant doctor failed to exercise due care. The Supreme Court sent the case back to the lower court for trial. The plaintiffs in this case sued the doctor for $2 million, plus costs. A decision for the plaintiffs would obviously have been serious for the doctor involved. In spite of the ultimate outcome of this case (the charges could not be substantiated), it is clear that medical practitioners and other persons who have a statutory duty to report may be held civilly as well as criminally liable when they fail to report suspected cases as required by law.

Welfare and Institutions Code Section 318 (Appendix III) gives the child's counsel the right to investigate all records of reported child abuse to see if mandated reports complied with the child abuse reporting laws. The child's counsel also has the duty to recommend to the court that a civil action on behalf of the child be initiated against any mandated reporter who did not comply with the child abuse reporting laws if the child sustains *any* further injury.

A promising development in the medical approach to handling child abuse is a team approach developed in the hospital environment. In Los Angeles County, there are several hospitals which have developed and are refining a team approach. An example of such a team effort is the Los Angeles County/USC Medical Center team called the Suspected Child Abuse and Neglect (SCAN) team. This team is composed of a medical doctor, nurse and medical social worker. Regular team members call on other hospital specialists when needed, and act in liaison with special child abuse units of local law enforcement agencies. As a result of this ongoing team emphasis, significant positive changes have occurred in the identification and reporting of child abuse cases in that hospital. In 1974 at the Los Angeles County/USC Medical Center, 49 cases were identified. Significantly, after the establishment of the SCAN team in 1975, *149* cases were identified – a 200+ percent increase. While this may be due, in small part, to an overall increase in incidents of child abuse, hospital personnel feel it is primarily a result of collective expertise of the cooperative team effort.

SOCIAL WELFARE

The importance of a county welfare (social service) department's role lies in both crisis intervention and the ongoing services it provides to children and families in difficulty.

County welfare department personnel provide immediate response to emergency situations on a 24-hour basis. (See Welfare and Institutions Code Section 16502.) Such crisis intervention generally involves short-term protective and social services for children and families. Workers utilize available community resources and coordinate case plans with other agencies to maximize services to the family. In this way, welfare staff perform a vital role in working with law enforcement by providing child protection services, as well as in conducting the initial assessment of reports of suspected child abuse and neglect.

Juvenile probation officers' duties include investigating requests for juvenile court action, filing petitions with the court, preparing social histories for the court and recommending to the court plans for the immediate and future protection of children. In most counties in California, however, the boards of supervisors have delegated to the county welfare departments all or part of these duties that concern dependent children, as described in Welfare and Institutions Code Section 300. (Welfare and Institutions Code Section 272.)

When a child is declared a dependent of the court, social welfare agencies supervise the child for the court at home or in placement, offer ongoing social services to the family and/or the child, including referral to needed treatment services, and make periodic progress reports to the court.

The county welfare department is one of the alternative agencies to which mandated reporters may submit reports of suspected child abuse. It should be noted that social welfare personnel are themselves included as professionals required to report abuse to law enforcement officials under Penal Code Section 11166. Moreover, Welfare and Institutions Code Section 16506 emphasizes that: *"persons administering and working in child protective services programs [are not relieved] from the obligation resting on all citizens to report crimes to duly authorized law enforcement agencies."* (Emphasis added.)

Within each county welfare department, there is a specialized child protective services program designed specifically for the protection of children's welfare. These programs are mandated by Welfare and Institutions Code Section 16500 which says that: "The state, through the department and county welfare departments, shall establish and support a public system of statewide child protective services . . . ."

Welfare and Institutions Code Section 16502.5 describes what these programs should contain, including provisions for substitute care or supportive services to the home.

Additionally, Welfare and Institutions Code Section 18250 gives the county boards of supervisors the authority to establish programs for protective services:

"The board of supervisors of any county may establish such programs as are deemed necessary to provide protective services for children, so as to insure that the rights of physical, mental, or moral welfare of children are not violated or threatened by their present circumstances or environment."

The primary goal of child protective services is obviously to protect children. Whenever possible, child protective services workers try to keep the family together and treat the unit as a whole. Removal of the child from the parents' custody is recommended only when the child cannot otherwise by protected. Workers generally begin helping families by seeking the answers to the following sample questions:

- Who lives with the child?
- What are the sexes and ages of parents, siblings, relatives and absent parents?
- Who are the caretakers and what are their ages, relationships and sex?
- What is the family income? Is the income sufficient? How is it spent?
- What is the nature of the parental relationship?
- How does the reportedly abused or neglected child interact with the parents?
- What is the length of time the family has been in the area and the frequency of moves?
- What is the condition of the home?
- Who are other relatives or friends in the area?
- What is the family's knowledge of community resources? Do they utilize these resources?
- Are child care services being used, such as baby sitters?
- Is there agreement between parents on child-rearing techniques?
- Is there use of corporal punishment as discipline?
- Are there any family tensions? How are they expressed?
- What is the relationship between the child and parents? (Role reversal, supportive, hostile?)
- How do family members communicate?

SCHOOLS

School teachers, nurses, counselors, principals and supervisors of child welfare and attendance and other designated school personnel who are mandated to report suspected child abuse cases play a critical role in the early detection of child abuse and neglect. (Every school is required by law to have a supervisor of child welfare and attendance.) Symptomatic signs of abuse and/or neglect, which may include injuries, listlessness, poor nutrition, disruptive behavior, absenteeism or depression, are often first seen by school personnel. Because immediate investigation of suspected abuse by proper child protective agencies may save a child from repeated injuries, school personnel should not hesitate to report suspicious injuries or behavior. Their duty is to *report*, not investigate.

It has been the practice of many schools to develop special procedures for reporting child abuse. School personnel who are mandated to report (per Penal Code Sections 11165 and 11166) should be aware, however, that regardless of the existence of such procedures, reporting to a child protective agency is still required by law and "good intentions" may not be a defense in a civil liability action. Furthermore, reporting is an *individual* responsibility. In those schools where personnel have been told of the potential civil liability for *not* reporting (e.g., *Landeros* v. *Flood*), the reporting of incidents has gone up. As mentioned in the reporting section of this publication, no one may interfere with the individual reporting responsibility; nor may a mandated reporter be absolved of responsibility by delegating to or depending on someone else to meet his/her statutory responsibility.

For example, when a person works for an organization which has policy procedures regarding any reports to outside agencies, the law allows the individual to report the child abuse or the suspicion of child abuse to an outside agency without fear of reprimand or suspension for violating organizational policies. The organization can ask that the employee make a report to it, as well as to the outside agency. The employee cannot, however, be prohibited or impeded from making a report to a child protective agency. (Penal Code Section 11166(e).) When two or more persons who are required to report jointly have "knowledge" of a suspected instance of child abuse, and there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has "knowledge" that the member designated to report has failed to do so shall thereafter have the responsibility to make the report.

To help achieve uniformity and consistency in reporting practices, many county superintendent of schools offices have developed administrative guidelines to aid school districts with child abuse identification and reporting. The county school offices also participate as school representatives on child abuse councils in counties throughout the state.

Schools can also play a substantial role in the prevention of abuse and neglect by offering classes on marriage, parenting and child development to students. Parenthood education is vitally needed. We know that today's mistreated youth may be tomorrow's abusers unless intervention takes place. Classes in parenting through the schools may help break the pattern of successive generations of child abuse.

Treatment of child abusers & the abused

While law enforcement is usually involved in the initial response and investigation of child abuse, it should be remembered that it may not always be appropriate to respond to child abuse with the traditional crime and punishment approach. Fines or prison sentences alone are unlikely to rehabilitate the child abuser. Treatment techniques for the entire family are being developed and implemented in California through a number of programs utilizing interdisciplinary techniques. This is not to say that treatment and prosecution are mutually exclusive concepts. Indeed, treatment is often necessarily dependent on prosecution to provide the impetus to get the abuser's cooperation. A child abuser's denial defense is often so strong that unless forced in an emphatic way to admit his involvement, he will not fully accept treatment. If the prosecution response is weak, it signals to the offender that he can get away with his misdeeds and that there is no real need for him to follow the orders or suggestions of other agencies. In short, all agencies reponding to child abuse are most effective when working cooperatively together to coordinate their efforts.

Treatment can have positive long-term effects when parents/caretakers can be assisted in feeling better about themselves. When their basic emotional needs for love, self-respect and competence are satisfied, they are less likely to mistreat their children.

Treatment for abusive parents is primarily a process of "parent reprogramming." Parents need someone who can be there in times of crisis and who can help them with their practical needs by leading them to resources or by providing more direct help. They need assistance in learning how to manage their own lives and in understanding a child's needs.

While it is obviously vital for abusers to have treatment resources available to them, whether on a voluntary or court-ordered basis, there is a compelling need for similar treatment for the abused child. Most existing treatment programs concentrate primarily on the abuser in giving psychological help with concur-

rent efforts to bring the family back together again.

Experts have expressed concern that not enough individual psychological counseling is given to the child. This can be extremely important in the area of incest. Although the parent may be receiving successful treatment, there is still a child at home or in placement who, for a variety of reasons, is riddled with guilt; who may be feeling an acute lack of self-worth; who may be doubting his or her own sexuality; and who is in need of individual counseling. Studies have shown that the female victim of incest has a higher potential for suicide and that many prostitutes were victims of sexual abuse as children. The need for treatment of the child victim may be illustrated by a few cases of which we are all aware because of their notoriety. These include Charles Manson, Arthur Bremmer and Edwin Kemper; all of whom were discovered, through psychiatric examination, to have been either abused or neglected children.

The child victim who is old enough to understand should be told the "why" of what has happened. Simply having a parent back in the home again after he or she is deemed no longer abusive is not enough. Special attention also needs to be paid to the abused child who is not old enough to speak, or who is not old enough to understand.

Parent self-help groups, such as Parents Anonymous and other community-based resource groups, have undertaken programs in child abuse treatment. Long- and short-term approaches are developed to help establish, strengthen and maintain a healthy emotional and physical coexistence between parents and children. In the short-term, it is important to intervene in the immediate situation. However, the key to positive solutions lies in the long-term approach.

Many areas of the state have 24-hour crisis lines to discuss potential or actual incidences of child abuse and neglect and to provide telephone counseling, information and referral services. The use of paraprofessionals and "parent aides" to staff these hot lines, make home visits and provide counseling and other direct services has proven effective in many instances. Paraprofessionals, aides and volunteers work under the direction of trained professionals and do not have responsibility for investigation, treatment or case management.

To complement crisis and other counseling services, many communities offer a variety of additional supports to families including:

- homemaking services (worker comes to home and helps with household tasks);
- emergency funds;
- emergency shelter care;
- child care services (day care);
- crisis nurseries (24-hour day care);
- food; and/or
- visits by public health nurses (assistance to new mothers, for example).

If parents, caretakers, foster parents, baby sitters or others feel the need for such assistance in dealing with the children for whom they are responsible, they should contact the following:

- The child abuse hot line, council or center in their area (if established).
- Parents Anonymous: In California – toll free: 1-800-352-0386.
- The child protective services unit of the local welfare or social services department.
- The local county health or mental health department.
- The local law enforcement agency for referral information.
- The local community college, adult high school or recreation and parks program director for parenting classes.

Local community child abuse interagency councils or multidisciplinary committees offer another approach to child abuse problems. These committees, which now exist in many California counties, are comprised of all involved agencies. They meet regularly to develop information, coordinate action and procure additional resources. As has been shown throughout this publication, many agencies have a role in child abuse and neglect. By forming councils, these agencies are able to develop better communication methods and avoid duplication of services whenever possible – a necessity in times of fiscal austerity.

Community involvement

Community members have an important role in protecting children from abuse and neglect. If maltreatment of a child is suspected, a report should be made so that a qualified and experienced person can investigate the situation. The places to call to report suspected child abuse include:

- The local police or county sheriff's department.
- The local county welfare department (other names for this may be Human Resources Agency, Department of Public Social Services, Department of Health and Human Services, Department of Public Assistance, etc.).
- The local county juvenile probation department.
- The local child abuse and neglect hot line, council or center. (Reporting to a local organization hot line, council or center will not satisfy the mandated reporters' statutory duty to report to a child protective agency, i.e., county probation or welfare department, or local law enforcement agency.)

If a laymember of the community, who is not required by law to report, feels reluctant to identify himself or herself by name, it should be noted that reports may be made to the above agencies anonymously (Penal Code Section 11167(c)). For purposes of investigation and follow-up, however, it is preferred that the name and address of such a reporter be volunteered. The important thing is the immediate protection of the child. In any event, all names are confidential and can be released only between child protective agencies, for certain court actions, or by a court order, whether the reporter is one required by law to report or not.

For example, when the parents of an abused child ask for the name of the individual who reported them, the child protective agency will not release the name of the reporting person. Only a court can order such disclosure and will do so only under certain circumstances. Mandated reporters *must* give their names to a child protective agency when reporting. All reporters, however, are protected by the cloak of confidentiality described above.

In addition to reporting suspected cases to the proper authorities, it is important for individuals in the community to involve themselves in the prevention and treatment of child abuse through various types of community action. Individuals can educate themselves and their organizations on the extent and problems of child abuse. They can involve themselves and their organizations in efforts to increase available resources in their area by providing material support, community education and/or by lobbying for additional and related services.

Finally, individually, we can all attempt to be sensitive to the needs of apparently isolated or troubled families with whom we are in contact; offer, wherever and whenever possible, our personal support as volunteers; make occasional visits; babysit to give the parents some time alone; or provide a variety of other supportive measures.

In the end, there are really three "victims" of child abuse: the child, the perpetrator(s) and the community. Each of us, as an observer, is a valuable "third party" necessary for the protection of children of all ages.

Appendix I.

Sections 11168 and 11169 PC require DOJ to adopt, print, and distribute child abuse reporting forms to CPAs throughout California. DOJ has developed and distributed three standard reporting forms – SS 8572, SS 8573 and SS 8574 – as well as a medical reporting form – DOJ 900. The use of DOJ-adopted forms is mandated for all persons and agencies required to report suspected child abuse pursuant to Section 11166 PC et seq.

- The "Suspected Child Abuse Report (11166 PC) – **SS 8572** may be used by anyone wishing to report a suspected child abuse incident to a CPA. However, the form is mandatory for all child care custodians, medical practitioners, non-medical practitioners, and employees of CPAs as defined in 11165 PC.
  The **DOJ 900**, "Medical Report – Suspected Child Abuse," is required by 11168 PC to be submitted by all professional medical personnel in conjunction with the SS 8572, "Suspected Child Abuse Report." This form is designed to provide investigating CPAs with detailed medical information that will assist in investigating suspected child abuse. DOJ does not require a copy of this form for the Child Abuse Central Registry.
- The "Suspected Child Abuse Preliminary Investigation Report (11169 PC)" – **SS 8573** is mandatory for all CPAs investigating a suspected child abuse incident (except general neglect cases) and must be completed by the investigating CPA whether or not any formal action is taken in the case.
- The "Unfounded Child Abuse Report (11169 PC)" – **SS 8574** is mandatory for all investigating CPAs to notify DOJ of all cases which prove to be unfounded after investigation. A case can be unfounded only if information is available which proves the incident did not in fact occur (false report, inherently improbable, injury was accidental or did not constitute child abuse).
  Only the investigating CPA which initially reported a case to DOJ can unfound that case. DOJ will not retain any records of a child abuse case which is proven unfounded.

An alternative form ["Suspected Child Abuse Report (11169 PC)" – **SS 8575**] is available to CPAs for reporting suspected child abuse to DOJ. CPAs may use this alternative form, in lieu of the existing forms SS 8572, SS 8573, and/or SS 8574, only if they have DOJ approval of the local procedure for processing the form. DOJ will only approve local procedures which are in compliance with the provisions set forth in Penal Code Sections 11166–11170.

Requests for approval of a local procedure should be addressed to:

Department of Justice
Bureau of Criminal Statistics and Special Services
P. O. Box 13417
Sacramento, CA 95813

If one agency in a county has already had a procedure approved by DOJ, other agencies in the same county may also use the procedure without submitting another copy for DOJ approval. However, the new agency should carefully review the approved procedure prior to ordering the SS 8575 forms from DOJ.

In counties which elect to use the SS 8575, mandated reporters other than employees of child protective agencies are still required to use the SS 8572, "Suspected Child Abuse Report (11166 PC)," for reporting to the local CPA.

SUSPECTED CHILD ABUSE REPORT (11166 PC)

TO BE COMPLETED BY REPORTING PARTY

CASE IDENTIFICATION

TO BE COMPLETED BY INVESTIGATING CPA

VICTIM NAME: _____

REPORT NO./CASE NAME: _____

DATE OF REPORT: _____

REPORTING PARTY

NAME/TITLE

ADDRESS

( ) PHONE _____ DATE OF REPORT _____ SIGNATURE OF REPORTING PARTY

SENT TO

○ POLICE DEPARTMENT ○ SHERIFF'S OFFICE ○ COUNTY WELFARE ○ COUNTY PROBATION

AGENCY _____ ADDRESS _____

OFFICIAL CONTACTED _____ ( ) PHONE _____ DATE/TIME _____

CHILD

NAME (LAST, FIRST, MIDDLE) _____ ADDRESS _____ BIRTHDATE SEX RACE

PRESENT LOCATION OF CHILD _____ ( ) PHONE _____

SIBLINGS

1. _____ 4. _____
2. _____ 5. _____
3. _____ 6. _____

NAME BIRTHDATE SEX RACE NAME BIRTHDATE SEX RACE

PARENTS

NAME (LAST, FIRST, MIDDLE) BIRTHDATE SEX RACE _____ NAME (LAST, FIRST, MIDDLE) BIRTHDATE SEX RACE _____

ADDRESS _____ ADDRESS _____

( ) HOME PHONE _____ ( ) BUSINESS PHONE _____ ( ) HOME PHONE _____ ( ) BUSINESS PHONE _____

INCIDENT INFORMATION

IF NECESSARY, ATTACH EXTRA SHEET OR OTHER FORM AND CHECK THIS CIRCLE. ○

1. _____ _____ *(CHECK ONE)* ○ OCCURRED ○ OBSERVED

DATE/TIME OF INCIDENT PLACE OF INCIDENT

IF CHILD WAS IN OUT-OF-HOME CARE AT TIME OF INCIDENT, CHECK TYPE OF CARE:

○ GROUP HOME OR INSTITUTION ○ FOSTER CARE ○ OTHER PLACEMENT (SPECIFY _____ _____)

2. TYPE OF ABUSE: *(CHECK ONE OR MORE)* ○ PHYSICAL ○ MENTAL ○ SEXUAL ASSAULT ○ NEGLECT ○ OTHER

3. NARRATIVE DESCRIPTION: _____

4. SUMMARIZE WHAT THE ABUSED CHILD OR PERSON ACCOMPANYING THE CHILD SAID HAPPENED: _____

5. EXPLAIN KNOWN HISTORY OF SIMILAR INCIDENT(S) FOR THIS CHILD: _____

8572 4/81

INSTRUCTIONS ON REVERSE

DISTRIBUTION: Police or Sheriff — WHITE Copy; County Welfare or Probation — BLUE Copy; DOJ — PINK Copy; Reporting Party — YELLOW Copy

OSP

MEDICAL REPORT – SUSPECTED CHILD ABUSE

HOSPITAL

INSTRUCTIONS: ALL PROFESSIONAL MEDICAL PERSONNEL ARE REQUIRED BY LAW TO COMPLETE THIS FORM WHERE CHILD ABUSE, AS DEFINED BY SECTION 11161.5 OF THE PENAL CODE, IS SUSPECTED AND SUBMIT IT TO EITHER THE LOCAL POLICE OR SHERIFF AND TO THE PROBATION DEPARTMENT, OR IN THE ALTERNATIVE TO EITHER THE WELFARE DEPARTMENT OR TO THE COUNTY HEALTH DEPARTMENT WITHIN 36 HOURS. PROFESSIONAL MEDICAL PERSONNEL MEANS ANY PHYSICIAN AND SURGEON, DENTIST, RESIDENT, INTERN, PODIATRIST, CHIROPRACTOR, PSYCHOLOGIST, RELIGIOUS PRACTITIONER FOR DIAGNOSIS, EXAMINATION OR TREATMENT; OR A REGISTERED NURSE IN THE EMPLOY OF A PUBLIC HEALTH AGENCY. EACH PART OF THE FORM MUST BE COMPLETED UNLESS INAPPLICABLE. IN FILLING OUT THIS FORM NO CIVIL LIABILITY ATTACHES AND NO CONFIDENTIALITY IS BREACHED.

I. GENERAL INFORMATION Print or type

PATIENT'S NAME | HOSPITAL ID NO.

ADDRESS | CITY | COUNTY | STATE | PHONE

AGE | BIRTHDATE | RACE | SEX | DATE & TIME OF ARRIVAL | MODE OF TRANSPORTATION | DATE & TIME OF DISCHARGE

ACCOMPANIED TO HOSPITAL BY: NAME | ADDRESS | CITY | STATE | RELATIONSHIP

PHONE REPORT MADE TO | ID NO. | DEPARTMENT | PHONE | RESPONDING OFFICER/AGENCY

NAME OF: ☐ FATHER ☐ STEPFATHER | ADDRESS | CITY | COUNTY | HOME PHONE | BUS. PHONE | AGE/DOB

NAME OF: ☐ MOTHER ☐ STEPMOTHER | ADDRESS | CITY | COUNTY | HOME PHONE | BUS. PHONE | AGE/DOB

SIBLINGS: LAST NAME, FIRST | DOB | LAST NAME, FIRST | DOB | LAST NAME, FIRST | DOB

II. MEDICAL EXAMINATION

A. History 1. EXPLANATION OF INJURIES BY PARENT OR PERSON ACCOMPANYING CHILD (LOCATION, DATE, TIME & CIRCUMSTANCES)

2. PATIENT'S STATEMENT EXPLAINING INJURY (PARAPHRASE)

3. PATIENT'S EMOTIONAL REACTION TO EXAMINATION (SUBMISSIVE, COMPLIANT, ETC.)

4. PREVIOUS HISTORY OF CHILD ABUSE (IF KNOWN)

B. Sexual Assault Perform exam only if necessary.

1. ACTS COMMITTED: NOTE – COITUS, FELLATIO, CUNNILINGUS, SODOMY

2. DURING ASSAULT
☐ VAGINAL PENETRATION (HOW) | EJACULATION: ☐ VAGINAL ☐ ORAL ☐ ANAL ☐ OTHER:
☐ ANAL PENETRATION (HOW) | ☐ CONDOM USED ☐ VOMITED ☐ LOSS OF CONSCIOUSNESS ☐ OTHER:

3. AFTER ASSAULT:
☐ WIPED/WASHED ☐ BATHED ☐ DOUCHED ☐ VOMITED ☐ CHANGED CLOTHES ☐ BRUSHED TEETH ☐ DEFECATED ☐ OTHER:

C. Physical Examination DATE & TIME OF EXAM | DATE & TIME OF ASSAULT | BP | PULSE | RESP. | TEMP

HEIGHT | WEIGHT | HEAD CIRCUM | LAST TETANUS | KNOWN ALLERGIES | CURRENT MEDICATION

DIAGNOSTIC DATA

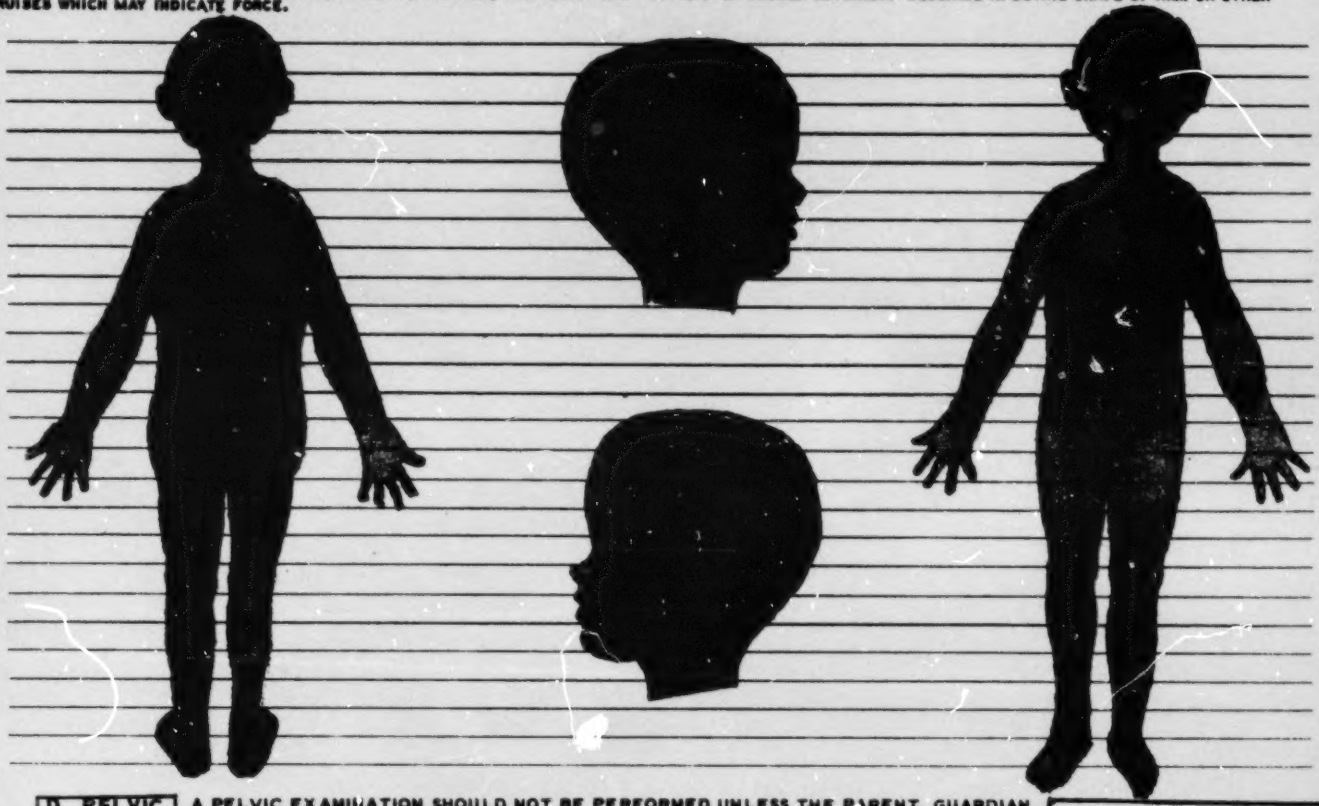
Check if indicated and incorporate results in written examination at left

- ☐ X–Rays (skull, chest, longbone, full skeletal)
- ☐ Bleeding, coagulation, tourniquet, tests
- ☐ Funduscopic
- ☐ Other

DOJ 900

DATE	HOSPITAL IF NO.	HOSPITAL

PHYSICAL EXAMINATION (CONTINUED) LOCATE AND DESCRIBE IN DETAIL ANY INJURIES OR FINDINGS; TRAUMA, BRUISES, ERYTHEMA, EXCORIATIONS, LACERATIONS, WOUNDS. TRACE OUT LINE USED & INDICATE LOCATION OF WOUNDS/LACERATIONS USING 'X' FOR SUPERFICIAL, 'O' FOR DEEP; SHADE FOR BRUISES OR BURNS. BESIDE EACH INJURY INDICATED NOTE COLOR, SIZE, PATTERN, TEXTURE, AND SENSATION. WRITE OVER UNUSED OUTLINES. DESCRIBE IN DETAIL SHAPE OF ARM OR OTHER BRUISES WHICH MAY INDICATE FORCE.



D. PELVIC A PELVIC EXAMINATION SHOULD NOT BE PERFORMED UNLESS THE PARENT, GUARDIAN OR MINOR CONSENT OR UNLESS NECESSARY AS PART OF TREATMENT. SEE DEPARTMENT OF HEALTH REGULATIONS TITLE 22, DIVISION 2, VICTIMS OF SEXUAL ASSAULT. SAME INSTRUCTIONS AS GENERAL PHYSICAL; IN ADDITION, NOTE PUBIC HAIR COMBINGS WHERE INDICATED, DRIED SECRETIONS & RECENT INJURIES TO HYMEN, TRACE & OUTLINE AS ABOVE.

III. DIAGNOSTIC IMPRESSION OF TRAUMA AND INJURIES

IV. TREATMENT/DISPOSITION OF PATIENT

A. ☐ GC CULTURE ☐ VDRL ☐ PREGNANCY TEST ☐ POST COITAL ESTROGEN ☐ VD PROPHYLAXIS ☐ OTHER:

☐ MOTILE SPERM: ☐ PRESENCE ☐ ABSENCE ☐ NOT TAKEN FAMILY ASSESSMENT BY: NOT ORDERED ☐

B. ORDERS:

C. DISPOSITION: ☐ ADMIT TRANSFERRED TO:

ACCOMPANIED BY: NAME ADDRESS RELATIONSHIP

☐ RELEASED

I HAVE RECEIVED THE INDICATED ITEMS AS EVIDENCE AND A COPY OF THIS REPORT.

OFFICER: ID NO.: DATE:

NURSE | SIGNATURE OF EXAMINING PHYSICIAN

V. SPECIMENS

STAINS/FOREIGN MATERIALS (WHEN INDICATED)

LOOSE HAIR	___	FINGERNAIL SCRAPINGS	___
BLOOD	___	DIRT OR GRAVEL	___
THREADS	___	VEGETATION	___
GRASS	___	CLOTHING	___
DRIED SECRETIONS	___		

	SLIDES	SWABS
VAGINAL	___	___
RECTAL	___	___
ORAL	___	___
ASPIRATES/ WASHINGS	___	___
BITE MARKS	___	___
OTHER:	___	___

PATIENT'S SAMPLES, TIME OF COLLECTION AT MD DISCRETION

BLOOD ___

HAIR FROM HEAD ___

SALIVA ___

HAIR FROM PUBIC AREA ___

D. FOLLOW-UP WITHIN:

☐ MEDICAL

☐ ___ HRS ___ DAYS SOCIAL SERVICES

☐ ___ HRS ___ DAYS PRIVATE MD

☐ ___ HRS ___ DAYS OTHER

___ HRS ___ DAYS

BEST COPY AVAILABLE

SUSPECTED CHILD ABUSE
PRELIMINARY INVESTIGATION REPORT
(11169 PC)

TO BE COMPLETED BY INVESTIGATING CHILD PROTECTIVE AGENCY

CASE IDENTIFICATION

TO BE COMPLETED BY INVESTIGATING CPA

VICTIM NAME: _____

REPORT NO./CASE NAME: _____

DATE OF REPORT: _____

A CHILD PROTECTIVE AGENCY

AGENCY _____

ADDRESS _____

( ) _____ PHONE _____ DATE _____ SIGNATURE OF INVESTIGATING PARTY _____

B ALLEGED ABUSER(S)/SUSPECT(S)

NAME (LAST, FIRST, MIDDLE) _____ BIRTHDATE/AGE _____ SEX _____ RACE _____

ADDRESS _____ ( ) _____ PHONE _____

NAME (LAST, FIRST, MIDDLE) _____ BIRTHDATE/AGE _____ SEX _____ RACE _____

ADDRESS _____ ( ) _____ PHONE _____

IF NECESSARY, ATTACH EXTRA SHEET OR OTHER FORM AND CHECK THIS CIRCLE. ◯

1. COMPLETE THE FOLLOWING STATEMENT: *The alleged abuser is the* _____ *of the victim.*

The alleged abuser is the _____ *of the victim.*
(FATHER, MOTHER, ACQUAINTANCE, ETC.)

2. EXPLAIN ANY KNOWN PRIOR ALLEGATION OF CHILD ABUSE MADE AGAINST THE ALLEGED ABUSER(S)/SUSPECT(S). _____

3. NARRATIVE (SUMMARIZE ACTIONS AND CONVERSATIONS BY SUSPECTS AND VICTIMS AND OTHER EVENTS NOT PREVIOUSLY COVERED). _____

SS 8573 4/81

INSTRUCTIONS ON REVERSE

DISTRIBUTION: Police or Sheriff — WHITE Copy; County Welfare or Probation — BLUE Copy; DOJ — PINK Copy

UNFOUNDED CHILD ABUSE REPORT
(11169 PC)

TO BE COMPLETED BY INVESTIGATING CHILD PROTECTIVE AGENCY

THE SUSPECTED CHILD ABUSE REPORT ON _____ (VICTIM NAME), _____ (REPORT NUMBER/CASE NAME),

_____ (DATE OF REPORT), SUBMITTED TO THE DEPARTMENT OF JUSTICE WAS PROVEN UNFOUNDED AFTER INVESTIGATION FOR THE FOLLOWING REASON(S) _____.

_____
INVESTIGATING AGENCY NAME AND ADDRESS

_____ _____
SIGNATURE AND TITLE OF OFFICIAL SUBMITTING UNFOUNDED CASE REPORT DATE

SS 8574 4/81
93574 - 552 100 M TRIP - OEP

INSTRUCTIONS ON REVERSE

DISTRIBUTION: Police or Sheriff — WHITE Copy; County Welfare or Probation — BLUE Copy; DOJ — PINK Copy

TRANSACTION TYPE:

☐ PRELIMINARY REPORT ☐ UNSUBSTANTIATED REPORT ☐ UNFOUNDED REPORT

SUSPECTED CHILD ABUSE REPORT
(11169 PC)

TO BE COMPLETED BY THE INVESTIGATING CHILD PROTECTIVE AGENCY

A. INVESTIGATING CHILD PROTECTIVE AGENCY:

1. AGENCY NAME _____

2. DATE OF REPORT _____ 3. REPORT NO./CASE NAME _____

4. NAME OF INVESTIGATING PARTY _____ 5. TELEPHONE (____)_____

B. INVOLVED PARTIES:

ENTER INFORMATION FOR ALL VICTIMS, PARENTS AND SIBLINGS OF VICTIMS, AND SUSPECTS INVOLVED IN THE SUSPECTED INCIDENT.

NAME (LAST, FIRST, MIDDLE)	BIRTHDATE	SEX	RACE	(CHECK ONE OR MORE) VICTIM	PARENT OF VICTIM	SIBLING	SUSPECT
1.				☐	☐	☐	☐
2.				☐	☐	☐	☐
3.				☐	☐	☐	☐
4.				☐	☐	☐	☐
5.				☐	☐	☐	☐
6.				☐	☐	☐	☐
7.				☐	☐	☐	☐
8.				☐	☐	☐	☐

ATTACH ADDITIONAL SHEET(S) IF NECESSARY AND CHECK HERE ☐

C. INCIDENT INFORMATION:

1. DATE INCIDENT REPORTED TO CHILD PROTECTIVE AGENCY _____

2. TYPE OF ABUSE *(CHECK ONE OR MORE)* ☐ PHYSICAL ☐ MENTAL ☐ SEXUAL ASSAULT ☐ NEGLECT

☐ OTHER-SPECIFY _____

3. DID THE ABUSE RESULT IN DEATH OF THE VICTIM(S)? ☐ YES ☐ NO

4. DID THE ABUSE OCCUR IN A GROUP HOME OR INSTITUTION? ☐ YES ☐ NO

IF "YES", ENTER NAME OF THE HOME OR INSTITUTION _____

INSTRUCTIONS ON REVERSE

DISTRIBUTION: Police or Sheriff — WHITE Copy; County Welfare or Probation — BLUE Copy; DOJ — PINK Copy

SS8575 1/82

Appendix II.

Penal Code Sections 11165–11172 and 11174

Article 2.5 Child abuse reporting

Sec. 11165.

As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual assault" means conduct in violation of the following sections of the Penal Code: Sections 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), and 647a (child molestation).

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, or shelter.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16508 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means situations of physical injury on a child which is inflicted by other than accidental means, or of sexual assault or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensed day care worker; an administrator of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(l) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

Sec. 11166.

(a) Except as provided in subdivision (b), any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse.

(b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation, for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(d) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by such selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such report shall be subject to any sanction for making such report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this article.

(g) A county probation or welfare department shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case, and to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse as defined in Section 11165, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department and the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse reported to it, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

Sec. 11167.

(a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led such person to suspect child abuse, requested by the child protective agency.

(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the suspected case of child abuse.

(c) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to Section 318 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil Code or Section 300 of the Welfare and Institutions Code, or when those persons waive confidentiality, or by court order.

(d) Persons who may report pursuant to subdivision (c) of Section 11166 are not required to include their names.

Sec. 11168.

The written reports required by Section 11166 shall be submitted on forms adopted by the Department of Justice after consultation with representatives of the various professional medical associations and hospital associations and county probation or welfare departments. Such forms shall be distributed by the child protective agencies.

Sec. 11169.

A child protective agency shall forward to the Department of Justice a preliminary report in writing of every case of known or suspected child abuse which it investigates, other than cases coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, whether or not any formal action is taken in the case. However, if after investigation the case proves to be unfounded no report shall be retained by the Department of Justice. If a report has previously been filed which has proved unfounded the Department of Justice shall be notified of that fact. The report shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send such report to the Department of Justice.

Sec. 11170.

(a) The Department of Justice shall maintain an index of all preliminary reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, or guardian ad litem appointed under Section 318 of the Welfare and Institutions Code, if he or she is treating or investigating a case of known or suspected child abuse.

When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency shall, upon completion of the investigation or after there has been a final disposition in the matter, inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

Sec. 11171.

(a) A physician and surgeon or dentist or their agents and by their direction may take skeletal x-rays of the child without the consent of the child's parent or guardian, but only for purposes of diagnosing the case as one of possible child abuse and determining the extent of such child abuse.

(b) Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this article in any court proceeding or administrative hearing.

Sec. 11172.

(a) No child care custodian, medical practitioner or nonmedical practitioner, or employee of a child protective agency who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from such liability with respect to any other use of the photographs.

(b) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than five hundred dollars ($500) or by both.

Sec. 11174.

The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse, as defined in subdivision (f) of Section 11165, in group homes or institutions and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.

Appendix III.

Welfare and Institutions Code Section 318

Sec. 318. Appointment of counsel for minor allegedly living in unfit home

(a) Notwithstanding the provisions of Section 317, when a minor who is alleged to be a person described in subdivision (d) of Section 300 appears before the juvenile court at a detention hearing, the court shall appoint counsel. The court may appoint the district attorney to represent the minor pursuant to Section 351.

(b) The counsel appointed by the court shall represent the minor at the detention hearing and at all subsequent proceedings before the juvenile court.

(c) Any counsel upon entering an appearance on behalf of a minor shall continue to represent that minor unless relieved by the court upon the substitution of other counsel or for cause.

(d) The counsel shall be charged in general with the representation of the child's interests. To that end, he shall make such further investigations as he deems necessary to ascertain the facts, including the interviewing of witnesses, and he shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings; he may also introduce and examine his own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. In addition, the counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interests of the child that may be protected by other administrative or judicial proceedings, including but not limited to, a civil action pursuant to subdivision (b) of Section 11172 of the Penal Code. The court shall take whatever appropriate action is necessary to fully protect the interests of the child.

(e) Notwithstanding any other provision of law, counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. Counsel shall be given access to records maintained by hospitals or by other medical or nonmedical practitioners or by child care custodians, in the manner prescribed by Section 1158 of the Evidence Code.

Appendix IV.

Title II, California Administrative Code Sections 930–930.8 "Guidelines for Investigation of Child Abuse in Group Homes or Institutions."

930. Scope.

In accordance with Section 11174 of the Penal Code, this article applies to the investigation of suspected child abuse in group homes or institutions reported under Section 11166 of the Penal Code and adopts guidelines to insure investigations of such reported child abuse are conducted in accordance with this article. The guidelines are applicable when the abuse reported is child abuse as defined in Section 11165(f) of the Penal Code and not a mere complaint as defined in Section 930.3(m).

930.1. Purpose.

(a) The purpose of the adopted guidelines is

(1) to insure that the investigations of child abuse occurring in group homes or institutions are timely, complete, and coordinated among the responsible agencies;

(2) to require the appropriate agency to conduct the investigation in accordance with the guidelines;

(3) to insure that all appropriate authorities are informed so that timely and appropriate measures will be taken to guard against future institutional abuse; and

(4) to properly document reasons for any disposition made.

(b) The intent of these administrative regulations is to foster a high level of cooperation, communication, and mutual respect between all agencies involved in the investigation and administration of institutional abuse cases. However, these guidelines are not intended to prohibit, impede or excuse law enforcement agencies in any way from conducting independent investigations into alleged criminal activity, or from carrying out the mandate of protecting life and property. Nor are they intended to preclude other

government agencies from performing their lawful duties that may require concurrent, independent investigation or actions.

930.2. Use of Guidelines.

The guidelines set forth in this article shall be used in the investigation of suspected child abuse in a group home or institution including neglect as defined in Penal Code Section 11165(c).

930.3. Definitions.

For the purpose of this article, the following glossary of terms shall apply whenever the terms are used:

(a) *Child Abuse Reporting Law* means Penal Code Section 11165, et seq.

(b) *Mandated reporter* means any person required to report pursuant to Penal Code Section 11166.

(c) *Group home or institution* means a non-family residential home of any capacity that provides 24-hour care in a group setting for children in need of personal services, protection, supervision, assistance, guidance or training essential for sustaining the activities of daily living or for the protection of the child including group homes or institutions exempt from licensing requirements of Health and Safety Code Section 1508 under Section 1505 of that code and Title 22, California Administrative Code Section 80105.

(d) *Child* means a person who is under 18 years of age.

(1) *Preschool age* means a child from the age of two (2) up to the age of six (6).

(2) *Infant* means a child who is under two (2) years of age.

(e) *Child protective agency* means a police or sheriff's department, a county probation department, or a county welfare department.

(f) *Law enforcement agency* means a police or sheriff's department, whichever of the two departments has jurisdiction.

(g) *Child welfare agency* means a county probation or county welfare department, whichever of the two departments has responsibility for investigation of Welfare and Institutions Code Section 300 cases.

(h) *Child placement agency* means any agency, public or private, licensed to engage in finding homes or other facilities for the placement of children for temporary or permanent care or adoption, including but not limited to probation departments, county welfare departments, adoption agencies, and agencies that place mentally or developmentally disabled children.

(i) *Voluntary inter-Agency Investigation Team* means a local voluntary association of law enforcement agencies, county welfare and probation departments, child placement agencies, and group home or institution licensing agencies established for the sharing of information and co-ordination of investigations of reports of child abuse occurring in group homes or institutions.

(j) *Investigation* means any activity by a child protective agency in response to a report of suspected child abuse including: required reporting; assessing the nature and seriousness of the abuse; required interviews; conducting interviews, gathering and preserving evidence; determining whether the report is founded or unfounded; taking measures to ensure the safety of the children, notification of action taken or disposition after completion of the investigation as required by this article; notifying mandated reporters as required by Section 11170 of the Penal Code and notifying all appropriate agencies of the results of the investigation, of any formal or informal action taken by the appropriate agency, and of the final disposition.

(k) *Serious abuse* means all sexual assault and severe neglect as defined in Section 11165(c)(1) of the Penal Code and any act or omission proscribed by Sections 273a(1) or 273d, or any infliction of non-accidental injury on a child such as assaults, batteries or other crimes involving physical harm.

(l) *Other abuse* means general neglect as defined in Penal Code Section 11165(c)(2) or any act or omission proscribed by Section 273a(2) of the Penal Code.

(m) *Complaint* means a report concerning any non-criminal act or omission that infringes upon the basic rights of a child including those enumerated in Section 80341, Title 22 of the California Administrative Code or concerning any program policy, regulatory procedure or practice of any group home or institution, or any non-criminal act or omission in violation thereof.

930.4. Reporting Abuse in Group Homes or Institutions.

(a) All employees, personnel or administrators of group homes or institutions and all other mandated reporters shall report any suspected child abuse occurring in group homes or institutions to a child protective agency as required by Section 11166 of the Penal Code. The report to the child protective agency is required in addition to any other reports of child abuse which may have been made to the state or county licensing agency or any other public or private agency.

(b) All employees of a child protective agency shall report all suspected abuse and may also investigate that abuse. However, other mandated reporters do not have the responsibility to determine whether or not suspected child abuse has occurred. The responsibility to investigate the abuse lies with the child protective agency which makes that determination in its investigatory capacity.

(c) With the exception of general neglect cases as defined in Section 11165(c)(2) of the Penal Code, each child protective agency investigating reported child abuse in group homes or institutions shall

forward a preliminary report in writing to the Department of Justice. In cases investigated by a Voluntary Inter-Agency Investigation Team only one preliminary report need be forwarded to the Department of Justice as required by Section 11169 of the Penal Code.

(d) Unless a report of suspected abuse is initially determined to be unfounded and when the investigation of or prosecution for child abuse will not be compromised, the investigating child protective agency shall immediately notify the child placement agency involved, the probation department, the agency responsible for licensing the group home or institution and the administrator of the group home or institution of the alleged abuse. If the child involved is not a dependent child or ward of the court, the parent or guardian of the child shall also be notified. If the child is a dependent child or ward of the court, the child placement agency shall determine whether or not to inform the child's parent or guardian of the alleged abuse.

930.5. Assessing the Nature and Seriousness of the Suspected Child Abuse.

Except as provided in Section 930.7, upon receipt of the report of suspected child abuse the child protective agency shall make a determination of the nature of the suspected abuse and whether it constitutes serious abuse as defined in this article.

(a) If the suspected child abuse appears to be serious abuse, the law enforcement agency shall investigate immediately, take measures as needed to protect the child, and continue the investigation in accordance with the standard procedures set forth in Section 930.6 of this article.

(b) If the suspected child abuse appears to involve other abuse, the child welfare agency shall investigate in accordance with the standard procedures set forth in Section 930.6 of this article. However, if such abuse occurs in a group home or institution under the authority of the child welfare agency, the law enforcement agency shall investigate.

(c) If the suspected child abuse appears to involve only a complaint, the report shall be referred to the licensing agency of the group home or institution and to the county welfare department.

(d) If at any point in the investigation the law enforcement agency determines that the incident does not involve serious abuse, the child welfare agency shall be notified immediately, and it shall continue the investigation.

(e) If at any point in the investigation the abuse initially thought to be other than serious abuse is determined to be serious abuse, the investigation shall be stopped, the law enforcement agency shall be notified immediately, and it shall continue the investigation.

930.6. Standard Procedure.

(a) Except as provided in Section 930.7 the standard procedures set forth below shall be followed to determine whether the reported child abuse occurred, whether remedial or protective action is necessary to ensure the safety of the child and other children in the group home or institution, to identify the perpetrator, and to provide a basis for assessment by appropriate independent agencies of the suitability of the group home or institution for placements.

(b) The guidelines established pursuant to Penal Code Sections 13516 and 13517 for the investigation of sexual assault and child abuse and neglect shall be consulted and may be followed where appropriate in investigating child abuse occurring in group homes or institutions. Copies are available through the Commission on Peace Officer Standards and Training, 4949 Broadway, P. O. Box 20145, Sacramento, California 95820-0145, Attention: Publications.

(c) Required interviews. Initial interviews with the victim, the reporting parties if known, and other witnesses are required to determine the circumstances leading to the report, when the abuse occurred, the nature and extent of the abuse and whether an incident of child abuse has occurred in the facility before.

(1) Reporting Party – The person(s) initially reporting the abuse under Section 11166 of the Penal Code. At all times great care shall be exercised to maintain the confidentiality provided by Section 11167 of the Penal Code for persons who report under the Child Abuse Reporting Law.

(2) Victim – whether the victim is an infant, preschool, or older child, it is preferable that an interview be conducted when possible by trained personnel with sensitivity to the psychological and emotional needs and background of children the victim's age.

(3) Other Witnesses – the following persons shall be contacted where warranted by the circumstances:

(A) the administrator and employees of the group home or institution and the licensee or owner,

(B) the placement worker for the child,

(C) other selected children in the home,

(D) the placement worker for other selected children in the home,

(E) authorities and teachers at any school the child may attend,

(F) the licensing worker for the group home or institution, and

(G) any other person who either may have witnessed the abuse or who may provide history or other related information concerning the victim or participants in the abuse.

(d) Conducting Interviews

(1) When appropriate, the interview should be conducted in the group home or institution. In any event, the investigator should view the premises.

(2) If possible, the child should be interviewed first, separately and in private. The investigator should be sensitive to the child's age and should conduct the inquiry in a nonthreatening atmosphere with appropriate assurances given to the child. Information should be solicited in a concerned and nonpunitive manner, and the child should be encouraged to give explanations regarding the reported abuse with the view toward eliciting specific details.

The child should be examined for injuries hidden by clothing or other garments, particularly infants and preschool children. Any statements of the child should be paraphrased and recorded in a narrative form.

(3) After the child and other selected children in the home have been interviewed, the employees and administrator and licensee or owner of the group home or institution should be interviewed.

(e) Gathering and Preserving Evidence

(1) The Department of Justice Child Abuse Unit shall be contacted to obtain any relevant information available, including whether other incidents have been reported involving the same group home or institution, the same child or children or the same person(s) who may have been involved in the reported abuse.

(2) Where authorized by law, photographs shall be taken and any tangible evidence of abuse shall be collected and preserved.

(A) Photographs should be taken of all visible physical injuries, even if the injuries appear slight. Photographs of conditions affecting the child's general appearance and demeanor should also be taken, especially in cases of neglect or failure to thrive.

(B) Physical evidence such as implements used to inflict the abuse, articles of clothing, fingerprints, or other related items should be collected and preserved. Where appropriate all such items shall be marked by the investigator for identification, placed in sealed containers, and a record made of the chain of custody for each item.

(C) Diagrams, photographs and measurements of the premises should be made, in particular of the scene of alleged abuse.

(D) Medical examination of the child:

1. Where the abuse involves a sexual assault, a medical examination of the child shall be conducted by a licensed physician. The guidelines prescribed by regulations in chapter 3, title 22, California Administrative Code shall be used.

2. Where serious abuse is suspected or the victim is an infant, a medical examination should be conducted by a licensed physician. Serious physical harm especially in infants may not be readily observable but can be indicated by the nature of the reported abuse. All evidence of abuse resultling from a medical examination, including but not limited to skeletal and dental x-rays, specimens, and blood samples, must be obtained and preserved.

(f) Determining Whether the Report is Unfounded

(1) If during the course of an investigation the report of suspected abuse proves to be unfounded because the report is inherently improbable or admittedly false, or because there is no evidence to substantiate an allegation of child abuse made by an anonymous reporter, or because the incident would not constitute child abuse as defined in Section 11165(g) of the Penal Code, the investigating agency shall inform the Department of Justice.

(2) Before a report may be considered unfounded, it must be proven that the alleged abuse did not occur. Alternative explanations for the alleged abuse, mere conflicts in statements of the victim and/or other witnesses, or lack of evidence to prove the allegation factually true are not alone adequate for a determination that a report is unfounded.

(g) Taking Measures to Ensure the Safety of the Child

(1) Removal of the child and placement in protective custody shall be done immediately where the child's condition or surroundings reasonably appear to be such as to jeopardize the child's welfare. After removal of the child the responsibility for alternative placement lies with the agency which placed the child in the group home or institution.

(2) If the investigation is being conducted by a law enforcement agency and probable cause to arrest exists, the suspect(s) shall be taken into custody where appropriate.

(3) If probable cause to arrest does not exist, any person(s) suspected of child abuse may be requested to leave the group home or institution voluntarily until completion of the investigation. If the suspect(s) is a child in the group home or institution, removal of that child should be considered. Removal should be accomplished by a law enforcement officer, by the child placement agency or by cooperation with that child's parent or guardian, or by order of the court, whichever is appropriate.

(4) On-site monitoring of the licensed group home or institution by the appropriate licensing agency until completion of the investigation should be considered, especially where staff or administrative personnel involvement in the alleged abuse is suspected. If the group home or institution is unlicensed, monitoring by the child welfare agency should be considered.

(h) Notification of Action Taken After Completion of the Investigation or Final Disposition of the Matter

In addition to the notification required in Section 11170 of the Penal Code, all persons and agencies listed below shall be notified in writing by the investigating agency of the results of the investigation, any action taken, whether the action be formal or informal, and/or the final disposition of the matter:

(1) The Department of Justice, Division of Law Enforcement.

(2) The child placement agency involved.

(3) The licensing agency of the group home or institution.

(4) The probation department and the welfare department in the county in which the group home or institution is located.

(5) The administrator of the group home or institution.

(6) The parent or guardian of the child involved if the child is not a dependent child or ward of the court.

(i) Actions That Shall or May be Taken Upon Receipt of the Notice Required on 930.6(h)

Upon receipt of the notice required in Section 930.6(h), the persons and agencies notified shall or may take action as appropriate, including but not limited to the following:

(1) The Department of Justice, Division of Law Enforcement shall file the copy of the notification with the preliminary report required by Section 930.4(C) and Section 11169 of the Penal Code;

(2) The child placement agency involved may;

(A) discontinue use of the group home or institution;

(B) notify other child placement agencies as long as the identity of the child involved is not disclosed and disclosure does not violate sanctions against disseminating confidential information or sensitive information that is contrary to the best interest of the involved children and/or their parent so that appropriate action for the protection of all children in the home may be taken; and

(C) notify the parent or guardian of the child involved if the child is a dependent child or ward of the court;

(3) The licensing agency may revoke or suspend the license of the group home or institution;

(4) The probation department and the welfare department in the county in which the group home or institution is located may recommend to the juvenile court whether the placement should be revoked, whether the suitability of the placement of all children in the home should be reviewed, or whether other proper judicial relief should be invoked;

(5) The administrator of the group home or institution may make appropriate personnel, policy, or procedural changes within the group home or institution;

(6) The parent or guardian of the child involved if the child is not a dependent child or ward of the court may remove the child.

930.7. Assessment of Abuse and Standard Procedures for Voluntary Inter-Agency Investigation Teams.

In counties having a Voluntary Inter-Agency Investigation team, procedures and standards for assessment and investigation of child abuse which are established and agreed upon by the agencies involved may be followed in lieu of the guidelines in Section 930.5 and 930.6, so long as they are not inconsistent therewith and all notifications required therein are made.

930.8. Enforcement of Guidelines.

To ensure that every investigation of alleged child abuse in group homes or institutions is conducted in accordance with the guidelines set forth in this Article, the Department of Justice shall implement the following procedures.

(a) The Department of Justice, Division of Law Enforcement, shall monitor investigations of incidents of suspected child abuse in group homes or institutions reported under Section 11169 of the Penal Code to ensure that each incident is being investigated and that reasonable progress is made in the investigation. The Division shall maintain records which shall include the case file name or report number of each such incident, the county and agency conducting the investigation, the date of the incident and the date reported to the investigative agency, information concerning any action taken, upon completion of the investigation or final disposition of the matter, and the notification submitted under Section 930.6(h)(4).

(1) The records required by this section shall be compiled from reports submitted pursuant to Section 11169 of the Penal Code and Sections 930.6(f) and (h) of this article, and may include information from records maintained by the Department of Justice on arrest and conviction.

(2) Records maintained by the Department of Justice on arrests for child abuse related charges shall be used to verify whether or not reports required by this Article or the Child Abuse Reporting Law have been submitted. If such reports have not been submitted, the Department shall request that the appropriate child protective agency in the county where the arrest occurred submit the required reports.

(b) The Office of the Attorney General shall be notified by the Division of Law Enforcement of any incidents of suspected child abuse in group homes or institutions reported under Section 11169 of the Penal Code.

(1) where it appears reasonable progress is not being made in the investigation,

(2) where reports required by Section 11169 of the Penal Code or by this article have not been submitted, or

(3) where any of the information required for the Division of Law Enforcement to monitor the investigation is not made available by the appropriate agencies.

Appendix V.

The rules of search and seizure as they apply to the investigation of child abuse crimes*

As in all other areas of criminal law, all searches, seizures and arrests made in the course of child abuse investigations must comport with the requirements of the Fourth Amendment. However, over the past 10 years, California courts have been somewhat more willing to find searches reasonable due the the heinous and dangerous nature of the crime of child abuse in all its forms.

This attitude was clearly expressed in *People* v. *Roman*, 256 Cal.App.2d 656, 660, when the court held:

"In cases of suspected child beating, we prefer the police to consider any apparent injuries as serious ones until they have satisfied themselves to the contrary."

The following facts gave rise to that holding: An entry into the defendant's apartment by a police officer without a warrant and a subsequent arrest of the defendant therein by the officer, also without a warrant, was proper, and the court properly instructed the jury, as a matter of law, that reasonable cause to make the arrest existed where it appeared that the officer investigating a complaint of child beating saw through the open door of the apartment a two-year-old child seated on the floor, his head down and his arms back, apparently unconscious. The officer thereupon entered the apartment, examined the child, noticed he had wounds on the back of his neck that appeared to be recent, observed blood around the child's nose and when he was asked if his dad had hit him, the child sobbed "Yes." *NOTE: Avoid leading questions, i.e., "Did your dad hit you?" Rather, use an indirect question – "What happened?" – and allow the victim to volunteer the answer.*

In other words, this was an exercise of the doctrine of necessity first articulated in *People* v. *Robert*, 47 Cal.2d 374, in the following manner:

"The trial court found that the officers reasonably

believed that someone inside the apartment was in distress and in need of assistance and that they entered for the purpose of giving aid. Necessity often justifies and action which could otherwise constitute a trespass, as where the act is prompted by the motive of preserving life or property and reasonably appears to the actor to be necessary for that purpose."

This emergency doctrine, in the context of child abuse investigations, gives rise to the proposition that the seriousness of the offense is a relevant consideration in determining the reasonableness of the entry. This proposition was explained in *People* v. *Johnson*, 15 Cal.App.3d 936, 941, in the following language:

"'If we assume, for example, that a child is kidnaped and the officers throw a roadblock about the neighborhood and search every outgoing car, it would be a drastic and undiscriminating use of the search. The officers might be unable to show probable cause for searching any particular car. However, I should candidly strive hard to sustain such an action, executed fairly and in good faith, because it might be reasonable to subject travelers to that indignity if it was the only way to save a threatened life and detect a vicious crime. But I should not strain to sustain such a roadblock and universal search to salvage a few bottles of bourbon and catch a bootlegger.'"

It is, thus, the seriousness of the crime and the helplessness of the potential child victim that have led the courts to be more inclined to find an emergency circumstance requiring warrantless entry than in some other offenses.

Notwithstanding this seeming predisposition to find such a search reasonable, the courts have consistently required that the emergency be real and immediate. Thus, in *People* v. *Smith*, 7 Cal.3d 282, 285–287, the police could not reasonably believe that it was an emergency situation where they discovered a child left alone outside his apartment in the late afternoon and where they then knocked on the door, received no answer and entered because they were faced with a quandary of what to do with the little child left alone. In other words, the court ruled the police could not enter the apartment for the purpose of making sure it was a safe place for the locked-out child to stay.

Contrast *People* v. *Smith, supra,* with *In re Dawn O.*, 58 Cal.App.3d 160, 162–163, where the police officer was confronted with the problem of escorting a five-year-old child back to home at 10:30 p.m. and where he got the impression that there might be an unattended child inside the apartment.

There the officer knocked on the door with no response, entered, not for the purpose of securing the residence for the child, but for determining whether there was another child alone inside the apartment. In those circumstnaces, the court ruled that there was a legitimate and immediate emergency that the child might be left alone in a dangerous circumstance. See also *Johnson* v. *Superior Court*, 68 Cal.App.3d 578, 585.

Another factor that must be considered in such circumstances is the type of information relied on by the police to reach their conclusion that there is an emergency circumstance. A case of particular interest is *People* v. *Brown*, 12 Cal.App.3d 600, 605, wherein the court found that in a situation where a brother of the victim reported hearsay information to the police that his father was having sexual intercourse forcibly with the cerebral-palsied and retarded daughter of the family, and where the officer had heard other information from a probation officer who was working with the family about prior acts of sexuality in the house, their entry into the house pursuant to the emergency doctrine was valid even though the critical information was based on hearsay evidence. In so ruling, the court noted:

"The walls of privacy and domestic security may protect some crimes from observation and prevention by all who are unarmed with a warrant or probable cause for arrest, or who, even when so armed, failed to demand admittance and to explain the purpose for which entry is sought. But the rights of privacy and domestic security extend no impenetrable protective cloak against the prevention of a felonious assault upon a helpless victim whose right to physical and mental integrity outweighs the right of the aggressor to remain secure in his domestic sanctuary when used for such a purpose." *Id.*, at 605.

In a similar ruling in *People* v. *Payne*, 65 Cal.App. 3d 679, 683, the court ruled that police officers, in forcing open a door in defendant's bedroom, did not act unreasonably or in violation of defendant's right to privacy or domestic security. Following reports by a reliable informant that the defendant molested children in a bedroom in his garage, police set up surveillance in which he was seen to pick up a male juvenile and drive him to the garage, whereafter defendant failed to respond to one of the investigating officers who repeatedly knocked on the bedroom door, announced that he was conducting a child molestation investigation, thus leading the officers to believe, despite the absence of any call for help by the juvenile, that an emergency situation had arisen in which a particularly heinous crime was being committed.

See also *People* v. *Johnson*, 15 Cal.App.3d 936, 940. The court ruled that police officers may rely on the unsubstantiated report of a mother that her child has been abducted, due to the "heinous and dangerous nature of the reported crime," and that the officers responding should not be required to insist the reporting mother "prove her case in the street" before acting in reliance upon her representations. The court went on to note that "the concept of the need for swift action is a highly determinative factor in any evaluation of police conduct." *People* v. *Johnson, supra,* at 940.

The extent of the search that is justifiable will also be measured in part by the seriousness of the danger. In *People* v. *Neth*, 5 Cal.App.3d 883, 886–888, the court held that where the police have been summoned to a house because of the medical condition of a person there, "it is proper for the police to conduct a search in order to assist medical personnel in diagnosis and treatment of the victim, and that the ordinary rules of search and seizure are inapplicable under such circumstances." At page 887.

ACCESS TO RECORDS

School districts may release information from pupil records without written parental consent or judicial order in connection with an emergency. Student records information may be given to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person (Education Code Section 49076(b)(1)). Factors to be taken into account in determining whether information from a pupil record is to be disclosed:

1) The seriousness of the threat to the health or safety of the student or other individuals,
2) The need for the information to meet the emergency,
3) Whether the parties to whom the information is disclosed are in a position to deal with the emergency, and
4) The extent to which time is of the essence in dealing with the emergency.

o Privacy Rights of Parents and Students, 1974 Regulations, Section 99.36 (also see Section 99.31).

Further, Section 438(b)(1) of the Federal Education Act of 1974 permits release to state and local authorities to whom such information is specifically required to be reported pursuant to state statute adopted prior to November 19, 1974.

When grounds for access are not clearly established, consultation with county counsel is advisable.

Related to such matters is the statutory right of police officers and others to acquire school records under certain limited circumstances. Education Code Sections 49076(a)(4) and 49076(b)(1) allow a child's records to be disclosed to the extent that such information is specifically required to be reported pursuant to state law.

Education Code Section 49076(b)(1) and 49076(a)(4) allows school records to be disclosed to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person. Thus, if police need information held by a school about a child in an emergency situation necessary to protect the health or safety of that student or another person, that school must disclose the evidence to the police. This is a closely limited rule and, in fact, replaces a statute that had previously given more rights of disclosure to the police.

The test of an "emergency" is:

1) The seriousness of the threat to the child.
2) The need for information to meet that emergency.
3) The authority of the person(s) to whom the information is disclosed.
4) The extent to which time is the essence of the emergency.

It should, perhaps, be mentioned at this point that the peace officer's right to take a minor into temporary custody without a warrant pursuant to Welfare and Institutions Code Section 305 (old Welfare and Institutions Code Section 625) does not exempt the police from the warranty requirements of the Fourth Amendment. Although the matter has not been directly ruled upon by a court, it would appear from related rulings that Section 305 concerns only the police officer's authority to take the child into custody, not the right to enter a private place protected by the Fourth Amendment, such as a home.

Finally, regarding the requirements of the Fourth Amendment in child abuse situations, it has recently been held that the exclusionary rule pursuant to the Fourth Amendment is not applicable to proceedings under the Welfare and Institutions Code Section 300 et. seq. to declare a minor a dependent child of the court. See *In re Robert P.*, 61 Cal.App.3d 310, 320–321. In other words, in a civil proceeding to determine the custody of a minor, evidence that would be excluded as a violation of the Fourth Amendment in a criminal proceeding would be admissible in the civil proceeding.

It should be strongly emphasized that neither the court nor the Attorney General's Office is suggesting that the rule of admissibility of illegally acquired evidence in a civil proceeding should be abused or taken advantage of as a means of evading the legitimate right to privacy protected by the Fourth Amendment. To quote the language of that court:

> "The application of the exclusionary rule, primarily in criminal cases, may be necessary to insure that the law enforcement officers observe the proscriptions of the Fourth Amendment. However, we are mindful that just dispositions are frequently thwarted thereby and we see no necessity to extend the rule to the relatively few violations in child custody actions which are not criminal in nature. The possibility that such an extension might result in the suffering or deprivation of innocent children is too high a price to pay for any slight additional deterrent effect." *In re Robert P., supra*, at 321.

EVIDENTIARY MATTERS

The prosecution of the crimes of sexual abuse and child beating is invariably difficult for the prosecutor. Normally, the only eyewitness to the crime will be the child victim and sometimes the spouse. For obvious reasons, effective incriminating testimony

from such witnesses is difficult to acquire. It is for this reason that we now consider certain rules of trial evidence distinctive to child abuse and related crimes. The investigating officer familiar with such rules of evidence will be able to acquire and retain extremely valuable evidence that might otherwise not have been included in the investigative report.

We first consider the matter of spousal immunity in child abuse crimes. As the reader is doubtlessly aware, in most situations one spouse cannot be forced to testify against the other in a criminal proceeding. This is not so in the case of child abuse crimes. Evidence Code Section 972(e)(1) states that the spousal privilege does not exist in a criminal proceeding in which one spouse is charged with the crime against the personal property of the other spouse or of a child of either, whether committed before or during the marriage. Thus the court, in *People* v. *Batres*, 269 Cal.App.2d 900, 903, held that:

> "The privilege of the wife and mother to refuse to testify against the husband and father under the circumstances here presented does not apply."

The next matter to be considered is the admissibility of evidence of similar sexual activity between a father defendant and another daughter in a charge of incest. The well-established rule in this matter is that where such evidence comes from the testimony of other than the prosecuting witness, such statement is admissible as corroboration and is relevent on a question of a common scheme or plan to commit incest by the father on various daughters. See *People* v. *Convert*, 249 Cal.App.2d 81; *People* v. *Kazee*, 47 Cal.App.3d 593, 596; *People* v. *Stanley*, 67 Cal.2d 812. It should be noted, however, that statements by the [prosecuting witness] on such matters would be inadmissible. Moreover, evidence of other not too remote sex offenses with the prosecuting witness is admissible to show a lewd disposition or the intent of the defendant towards the prosecuting witness. Penal Code Section 1111 forbids conviction upon the testimony of an accomplice, unless it is corroborated by other evidence that will tend to connect the defendant with the commission of the crime. Such corroboration may be circumstantial or gained from the defendant's admission, statements, testimony or conduct as a witness. Obviously, flight from the jurisdiction constitutes an implied admission by conduct and constitutes corroboration of the charged offense. However, interestingly, the court in *People* v. *Hurd*, 5 Cal.App.3d 865, 876, held that silence in the face of accusatory statements constitutes sufficient corroboration for the purpose of Penal Code Section 1111. The investigating officer, therefore, should pay particular attention to the conduct, statements or lack of statements by the defendant at the time that he is confronted with the allegation.

Perhaps the most important rule of evidence in sexual abuse cases is the exception to the hearsay rule which allows a police officer to testify in court as to statements made by the victim at the time of the arrest. Due to the nature of the crime and the relationship of the victim to the defendant in sexual abuse cases, such victims normally make very poor witnesses. It is therefore critical that the investigating officer at the scene of the crime takes down verbatim all statements made by the child at the time of the arrest. Such evidence may be critical to the prosecution. See *People* v. *Gentry*, 270 Cal.App.2d 462, 468–473; Evidence Code Section 1237.

A daughter below the age of consent is not an accomplice in a crime of incest with her father. Thus her testimony need not be corroborated. *People* v. *Batres, supra*, at 903. Similarly, in a prosecution for sexual offenses against two young boys pursuant to Penal Code Sections 288 and 288(a), where the boys are under the age of 14, they too could not be accomplices to the crime and their testimony need not be corroborated.

Finally, we consider the test of whether one spouse is an accomplice to the crime of child abuse charged against the other spouse. To be an accomplice, one must knowingly, voluntarily and with common interest unite with the principal offender in the commission of the crime. *People* v. *Fuentes*, 253 Cal.App.2d 969, 974. In a trial on Penal Code Section 273(a), the mere fact that on some occasion or another the other spouse may have spanked the child does not necessarily mean that she thereby violated the provisions of Section 273(a).

CUSTODIAL MATTERS

The laws pertaining to the taking of a minor into custody of the juvenile court or the temporary custody of the peace officer or probation officer are found in Welfare and Institutions Code Section 300 et seq. These code sections were added by the Legislature in 1976 and replaced the familiar Welfare and Institutions Code Section 600 as follows:

Welfare and Institutions Code Section 300 described those minors who may come within the jurisdiction of the juvenile court. Subsection (a) includes those minors in need of proper and effective parental care or control who have no parent or guardian or whose parent or guardian is not willing to exercise or is not capable of exercising such care or control. Subsection (b) includes a minor who is destitute or who is not provided with the necessities of life, who is not provided with a home or suitable place of abode. Subsection (c) includes minors who are physically dangerous to the public because of a mental or physical deficiency, disorder or abnormality. And subsection (d) includes those minors whose homes are unfit by reason of neglect, cruelty, depravity or physical abuse [by] either of his parents or [by] the guardian or other person in whose custody or care the minor is.

Welfare and Institutions Code Section 305, discussed previously in the search and seizure rules, authorizes the peace office to take a minor into temporary custody without a warrant if the minor

is under the age of 18 and the officer has reasonable cause to believe the minor is a person described in Welfare and Institutions Code Section 300. Or if the minor is a dependent child of the juvenile court or concerning whom an order has been made pursuant to Welfare and Institutions Code Section 320 or 356 and such officer reasonably believes that the person has violated an order of the juvenile court or has escaped from any commitment order by the juvenile court, or if the minor is under the age of 18 years and is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization or other remedial care. Once again it should be reiterated that this code section authorizes peace officers to take the minor into custody without a warrant; it does not exempt the officer from the requirements of the Fourth Amendment.

Welfare and Institutions Code Section 308 requires that when an officer takes a minor before a probation officer, to juvenile hall or to any other place of confinement, the officer must take immediate steps to notify the minor's parents, guardians or responsible relatives and inform them where the minor is. Welfare and Institutions Code Section 308(a). Immediately after taking the minor to the place of confinement and except where physically impossible, no later than three hours after the minor has been taken into custody, the minor has the right to make at least two telephone calls from the place where he is being held, one call completed to his parent or guardian, responsible relative or employer and another call completed to an attorney. Welfare and Institutions Code Section 308(b).

Welfare and Institutions Code Section 313 concerns the maximum time that a minor may be retained in custody in the absence of a juvenile court petition. A minor being held in temporary custody by a peace officer or probation officer must be released within 48 hours after having been taken into custody, excluding nonjudicial days, unless within that time a petition to declare the minor a dependent child has been filed. Welfare and Institutions Code Section 313(a).

**Information taken from* Peace Officer Law Report, *California Department of Justice, August 1977.*

Acknowledgments

The Attorney General's Crime Prevention Center staff wish to express deep appreciation to the following experts who assisted in the preparation of this publication:

Kathleen Baxter-Stern
Executive Director
San Francisco Child Abuse Council, Inc.

Sharrell Blakely
Chief
Adoptions Branch
California Department of Social Services

John Burton
Consultant
Office of County Superintendent of Schools
Los Angeles County

Barbara Flaherty
Child Abuse Coordinator
Department of Public Social Services
Los Angeles County

G. Michael Gates
Deputy Attorney General
State of California

Margaret Elaine Garnand
Deputy Attorney General
State of California

Jackie Howell *(Retired)*
Abused Child Unit
Police Department
Los Angeles

Norm Main
Deputy District Attorney
Sacramento County

Jean Matusinka
Deputy District Attorney
Los Angeles County

Jim Morris
Deputy District Attorney
Sacramento County

Carol Walker-Painter
Lieutenant
Sheriff's Department
Los Angeles County

Michael A. Reinhart, M.D.
University of California Medical Center
Sacramento

Del Skaggs
Commander, Youth Division
Sheriff's Office
Sacramento County

Norman D. Sperber, D.D.S.
Forensic Odontologist
Coroner's Office
San Diego County

Herschel Swinger
Child Abuse and Neglect Resource Project
California State University
Los Angeles

Deanne Tilton
Executive Director
Interagency Council on Child Abuse and Neglect
Los Angeles County

L. Anthony White
Assistant District Attorney
Shasta County